



AGENDA FOR THE HEARING EXAMINER

Tuesday, November 5, 2019

9:00 AM

Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. CASE#PDP18-0008*; Address: Access Undetermined; Applicant: MSI Holdings LLC
- B. CASE#VP19-0011*; Address: 4980 Seville Court; Applicant: Cape Seville LLC
- C. CASE#VP19-0012*; Address: 2712 SW 29th Court; George Thomas and Lynne Edwards
- D. CASE#VP19-0013*; Address: 2929 SW 27th Street; Applicant: Manfred & Gisela Waldinger

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, December 3, 2019, at 9:00 a.m., in Council Chambers

4. ADJOURNMENT

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0411 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree.

We will direct all comments to the issues. We will avoid personal attacks.

The hearing shall, to the extent possible, be conducted as follows:

1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.
5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:
 - The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
 - Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
 - Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
 - The Applicant may cross-examine any witness and respond to any testimony presented.
 - Staff may cross-examine any witness and respond to any testimony presented.
 - The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
 - The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
 - Final argument may be made by the Applicant, related solely to the evidence in the record.
 - Final argument may be made by the staff, related solely to the evidence in the record.
 - For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
 - The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.

Item Number: 2.A.
Meeting Date: 11/5/2019
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

CASE#PDP18-0008*; Address: Access Undetermined; Applicant: MSI Holdings LLC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests approval of a Planned Development Project (PDP) entitled "Cape 84 Acres" to develop a maximum of 336 units within three phases. The PDP requests Development Plan approval along with the approval of the following deviations:

- 1) Deviation from LUDR, Section 3.1.2.A.3.b
- 2) Deviation from LUDR, Section 3.16.4,
- 3) Deviation from LUDR, Section 5.2.13.A,
- 4) Deviation from LUDR, Section 5.2.13.C.1,
- 5) Deviation from LUDR, Section 5.2.13.C.5,
- 6) Deviation from EDS, G-5 Cross, and
- 7) Deviation from EDS, Dead End Streets.

LEGAL REVIEW:

EXHIBITS:

See Attached Backup Materials.

PREPARED BY:

Jessica M. Cruz Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

ATTACHMENTS:

| Description | Type |
|--------------------|-----------------|
| ▣ Backup Materials | Backup Material |
| ▣ Backup Materials | Backup Material |
| ▣ Backup Materials | Backup Material |
| ▣ Backup Materials | Backup Material |



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC),
LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

Project Name: Cape 84 Acres

Project Number: _____

To help prepare this application, the applicant should obtain copies of the following:

- [Land Use and Development Regulations](#) (this document is linked)
 1. Land Development Regulations (Article 4)
 2. Parking Requirements (Article 5.1)
 3. Landscape Ordinance (Article 5.2)
 4. Sign Ordinance (Article 7)
- NFPA 1 Fire Prevention Code
- Engineering Design Standards

The advisory review is conceptual only and any staff comments are subject to change based on detailed information with an application to the City of Cape Coral. Formal review may result in additional changes not noted at this time. The final design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

ACKNOWLEDGEMENT

I, MSI Holdings, LLC., as the owner of this property or the duly Authorized Representative, agree to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State and County laws, and certify that all information supplied is correct to the best of my knowledge.

In addition, I understand that prior to the issuance of the Certificate of Occupancy for this development, the engineer of record must supply the Department of Community Development with record drawings and a letter of substantial compliance for the project.

In addition, I authorize the staff of the City of Cape Coral to enter upon the property for purposes of investigating and evaluating the request made through this application.

Please note: Advertising fees must be paid in full at least 10 days prior to public hearing or the item may be pulled from the agenda and continued to a future date once the fees have been paid.

(Name of Entity)

* Haig Charles Tapalian | Manager

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

Haig Charles Tapalian
SIGNATURE

STATE OF RI, COUNTY OF PROVIDENCE (SIGNATURE MUST BE NOTARIZED)

Sworn to (or affirmed) and subscribed before me this 16th day of July, 2018, by Haig Charles Tapalian who is personally known or produced DRIVERS LICENSE as identification.

NOTARY STAMP HERE

Exp. Date: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____



Steven Medeiros

***Please include additional pages for multiple property owners.**

**Authorization to Represent Property Owner(s) –
Property Owner is a Corporation, Limited Liability Company (LLC),
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

Please be advised that Ensight, Inc. (Brian R. Smith)
(Name of Authorized Representative(s) and business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit N/A Block N/A Lot N/A Subdivision N/A

Or Legal Description: ☒ (described as an exhibit A in Microsoft Word format and attached hereto)

* See attached letter of authorization

** Name of Entity (Corporation, Partnership, LLC, etc)

Haig Charles Tapalian
Signature

Manager

Title of Signatory

Haig Charles Tapalian

Name (Please print or type)

STATE OF

RI

COUNTY OF

(SIGNATURE MUST BE NOTARIZED)

Providence

Sworn to (or affirmed) and subscribed before me this 16th day of July, 2018, by
Haig Charles Tapalian who is personally known or produced Driving License
as identification.



Exp. Date: _____

NOTARY STAMP HERE

Signature of Notary Public: _____

Printed name of Notary Public: _____

Steven Medeiros
Steven Medeiros

*Please include additional pages for multiple property owners.

****Notes:**

If the applicant is a corporation, then it is executed by the corp. pres. or v. pres, sec, tres, or a director, .

If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should be signed by the Company's "Managing Member."

If the applicant is a partnership, then a partner can sign on behalf of the partnership.

If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.

If the applicant is a trust, then they must include their title of "trustee."

In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

PDP Applicant Checklist

Project Name: _____

Applicant must submit the completed application and the associated documentation listed below, collated into 17 separate packets (one (1) original and 16 copies). These are minimum requirements for all PDP applications. Based on the nature of your project, additional items may be required by staff.

Incomplete submittals will not be accepted

- _____ All application pages must be initialed by the property owner or their authorized representative
- _____ 24" x 36" engineered PDP Development Plans, including landscape buffer areas and building elevations – See pages 7 – 10 for further information
- _____ Certified Boundary Surveys, in NGVD 1929, completed within the last six (6) months showing elevations – See page 7 for further information
- _____ PDP application fees paid in full at time of application – See page 11 for further information
- _____ Letter of Intent (LOI) – See page 6 for further instructions
- _____ Environmental Survey/Report – See page 7 for further instructions
- _____ Warranty or Quit Claim Deed – Applicant shall provide a copy of Warranty or Quit Claim Deed for one hundred (100) percent of the property comprising the Planned Development Project.
- _____ Vacation of Plat requests must include letter of "No Objection" from the electric company, the telephone company, and the cable company – See page 9 for further instructions
- _____ Page 1 must be signed and notarized by either all property owner(s) or the authorized agent
- _____ The "*Authorization to Represent Property Owners*", page of the application, must be signed by all property owner(s) and notarized
- _____ Properties owned by corporations, limited liability companies, limited partnerships, general partnerships, and trustees must provide legal documentation (For example, the Articles of Incorporation) listing persons authorized to sign for the entity and in these situations the property owner(s) must sign all applicable PDP forms in their corporate capacity.

As an alternative to submitting everything in paper format, the applicant may opt to submit the following:

- _____ 11 sets of plans, in paper format, as described above
- _____ 11 signed and sealed Boundary Surveys, in paper format, as described above
- _____ One (1) copy of the application & all other documents you are submitting for review
- _____ 1 CD/DVD with PDFs of documents you are submitting:
 - Each document you are submitting needs to be a separate PDF, appropriately identified by name. For example, the application will be one PDF, titled "Application", the Letter of Intent will be another PDF, titled "Letter of Intent", plans, boundary surveys, etc.

GENERAL INFORMATION

Project Name: _____

Applicant: _____

Address: _____

Phone: _____ Fax: _____ E-Mail: _____

***Property Owner:** _____

Address _____

Phone _____ Fax _____ E-Mail _____

Authorized Representative _____

Address _____

Phone _____ Fax _____ E-Mail _____

Location

Unit _____ Block _____ Lot(S) _____

Subdivision _____ Strap Number(s) _____

Legal Description ☐ (Described as Exhibit A in Microsoft Word Format and attached hereto)

Property Address: _____

Plat Book _____ Page _____ Current Zoning _____ Future Land Use _____

This application includes the following requests: (Please check all that apply)

| | | | |
|---|--|--|---|
| <input type="checkbox"/> Subdivision | <input type="checkbox"/> Special Exception | <input type="checkbox"/> Rezoning | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Deviation to Landscaping | <input type="checkbox"/> Deviation to Non-residential Design Standards | <input type="checkbox"/> Deviation to Engineering Design Standards (EDS) | <input type="checkbox"/> All Other Deviation Requests |
| <input type="checkbox"/> Borrow Pit | <input type="checkbox"/> Vacation of Plat | | |

***Please include additional pages for multiple property owners.**

EXHIBIT A

DESCRIPTION:

A PLOT OR PARCEL LYING IN A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER, WEST LINE OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°51'53"E. ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE AFORESAID SECTION 29 TO A POINT ALONG THE EASTERLY RIGHT OF WAY LINE OF VETERANS PARKWAY AS RECORDED IN OFFICIAL RECORDS BOOK 2910, PAGE 2471 PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR 566.85 FEET; THENCE RUN S.89°51'53"E. FOR 2192.43 FEET; THENCE RUN S.00°12'27"W. TO A POINT ALONG THE ARC OF A CURVE AND THE AFORESAID RIGHT OF WAY LINE OF VETERANS PARKWAY FOR 2702.64 FEET; THENCE RUN ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST FOR 1871.14 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 1565.02 FEET, A CENTRAL DELTA ANGLE OF 68°30'11" A CHORD THAT BEARS N.49°41'42"W. AND A CHORD DISTANCE OF 1761.67 FEET TO A POINT OF TANGENCY; THENCE RUN N.15°26'36"W. TO A POINT OF CURVATURE FOR 480.72 FEET; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT, CONCAVE TO THE SOUTHWEST FOR 1001.86 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 2067.90 FEET, A CENTRAL DELTA ANGLE OF 27°45'32", A CHORD THAT BEARS N.29°19'22"W. AND A CHORD DISTANCE OF 992.09 FEET TO A POINT OF TANGENCY; THENCE RUN N.43°12'08"W. FOR 329.10 FEET TO THE POINT OF BEGINNING.

CONTAINING: 3,689,459.55 SQ FEET OR 84.7 ACRES, MORE OR LESS.

PROPERTY and PROJECT DEVELOPMENT DATA

- | | | | | |
|----|--|---------------|---------|-----------------|
| a. | Zoning District | _____ | | |
| b. | Future Land Use Class | _____ | | |
| c. | Area of Subject Property | _____ | acres | |
| d. | Type of Development | _____ | | |
| e. | Estimated Number of Employees | _____ | | |
| | Number of Seats in Assembly | _____ | | |
| f. | Parking Spaces Required | _____ | | |
| g. | Parking Spaces Provided | _____ | | |
| h. | Parking and Street Area | _____ | sq. ft. | _____ % of Site |
| i. | Ground Floor Building Area | _____ | sq. ft. | _____ % of Site |
| j. | Total Floor Area | _____ | sq. ft. | _____ % of Site |
| k. | Building Heights | _____ | feet | _____ stories |
| l. | Total Proposed Impervious Surface Area | sq. ft. _____ | | % of Site _____ |
| m. | Permanent Open Space | sq. ft. _____ | | % of Site _____ |
| | Landscaped Area | _____ | sq. ft. | % of Site _____ |
| n. | Recreation Area | _____ | sq. ft. | % of Site _____ |

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

- | | | | | |
|----|---|-------|------------------|---------------|
| o. | Number of Dwelling Units (du) | _____ | | |
| p. | Gross Density (du/acres) | _____ | | |
| q. | Number, Type, and Floor Area of each Dwelling Unit: | | | |
| 1. | Efficiency | _____ | Floor Area _____ | sq. ft. _____ |
| 2. | 1 Bedroom | _____ | Floor Area _____ | sq. ft. _____ |
| 3. | 2 Bedroom | _____ | Floor Area _____ | sq. ft. _____ |
| 4. | 3 Bedroom | _____ | Floor Area _____ | sq. ft. _____ |
| 5. | 4 Bedroom | _____ | Floor Area _____ | sq. ft. _____ |

LETTER OF INTENT

Please include a Letter of intent (LOI), stipulating your request, addressed to the Community Development Director. This letter must specify all applicable requests. Such requests may include any and/or all of the following:

- a. General purpose and intent of the PDP
- b. Subdivision requests – See Article 4.1 and 4.2.5
- c. Rezoning requests specifying the actual request and explanation of need for the rezoning
- d. Special exception requests and explanation of need for the special exception
- e. Variance requests specifying the actual request and explanation of need. All variance requests must address the five (5) criteria for the granting the a variance, per Land Use and Development Regulations, section 8.10. Note: Variances run with the land.
- f. Vacation of Plat as outlined in section 8.11 and explanation of vacation request
- g. Borrow pit requests as outlined in section 3.23, 4.2.5, and 8.3.2

DEVIATION REQUEST LETTER(S)

Applicant must complete a separate deviation request letter for each deviation type requested. Please ensure that proper justification for the requested deviation accompanies each request. Staff will not analyze any requested deviation that does not include justification for the deviation sought and this may result in a rejection of your application. Refer to the appropriate section of the LUDRs for guidance on the criteria for which a particular deviation may be sought. Note: Deviations do not run with the land.

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Engineering Design Standards (EDS) Deviations in accordance with sheet 1, “Foreword” paragraph 5,
- All Other Deviation Requests, shall be in accordance with Section 4.2.4.K

TRAFFIC GENERATION ESTIMATE

The following will determine the need of a Traffic Impact Statement. Trip Generation Estimate, based on the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual:

ITE Code _____ Is estimate based on locally collected data? _____

Regression equation (if used)

Independent Variable

Daily Two Way Trip Estimate

Peak Hour (of generator) Entering

Peak Hour (of generator) Exiting

Total Peak Hour (of generator)

Peak Hour Entering and Exiting trips greater than 300 trips

If the total peak hour traffic exceeds 300 trips, a Traffic Impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.

TABLE 1
TRIP GENERATION COMPUTATIONS
Cape 84 Acres

Land Use

| <u>Code</u> | <u>Land Use Description</u> | <u>Build Schedule</u> |
|-------------|--------------------------------|-----------------------|
| 220 | Multi-Family (Low Rise) | ± 384 Units |

Land Use

| <u>Code</u> | <u>Trip Period</u> | <u>Trip Generation Equation</u> | <u>Total Trips</u> | <u>Trips Enter/Exit</u> |
|----------------|-----------------------|---|--------------------|-------------------------|
| LUC 220 | Daily Traffic (ADT) = | $T = 7.56(384) - 40.86 =$ | 2,862 ADT | |
| | AM Peak Hour (vph) = | $\ln(T) = 0.95\ln(384) - 0.51 =$ 23% Enter/ 77% Exit = | 171 vph | 40 / 132 vph |
| | PM Peak Hour (vph) = | $\ln(T) = 0.89\ln(384) - 0.02 =$ 63% Enter/ 37% Exit = | 196 vph | 124 / 73 vph |

GRAPHIC STANDARDS: GENERAL INFORMATION

Sheet # of
submitted
plans:

The Development Plan shall be of sufficient scale to show all detail. The scale of the Plan shall be illustrated by a graphic scale on every sheet. The date and true north arrow shall be shown on every sheet. The following general information is required:

- _____ 1. Names and addresses of the owners, planner, architect, landscape architect Engineer and surveyor.
- _____ 2. A General Location and Vicinity Map (plat sheet). Please indicate the relationship of the proposed project site to surrounding existing land uses, zonings, future land uses, community facilities, major streets, utilities and any other principal buildings or physical features in and adjoining the subject property. These features shall be indicated for a distance of three hundred (300) feet from the outside boundaries of the subject property. Indicate all names and locations of adjoining subdivisions, development projects, unplatted properties, and streets within unincorporated Lee County.
- _____ 3. Certified Boundary Survey, completed within the last 6 months, meeting the Minimum Technical Standards as set forth in Chapter 5J-17, Florida Administrative Code.

EXISTING PROPERTY CONDITIONS

Sheet # of
submitted
plans:

- _____ 1. Acreage of land within property.
- _____ 2. Boundary lines of the project and their bearings and distances.
- _____ 3. Existing and proposed easements and their locations, widths and distance, as well as existing structures.
- _____ 4. Streets and waterways on and adjacent to the project, their names, widths and other dimensions as may be required.
- _____ 5. The location of all existing utilities connections available to the property site.
- _____ 6. Tree Survey: The location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet. Reference 5.2.6 of the City's Land Development Regulations. The City is a designated "Tree City" and tree retention is encouraged.
- _____ 7. Environmental Site Survey - see the City's guidelines for conducting an environmental survey
- _____ 8. Flood elevation data and flood zone boundary lines delineated, if applicable.
- _____ 9. Any other significant existing features, as may be required by the Director.

DEVELOPMENT PLANS

**Sheet # of
submitted
plans:**

The Development Plan should be viewed as a conceptual plan and not construction drawings or a site plan. A high level detailed site plan with information not needed will be rejected at submittal. The Development Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following.

- _____ 1. Name of project, north arrow, date and scale.
- _____ 2. Elevations, (drawing of front, sides, and rear faces of buildings), and use of all proposed buildings and structures.
- _____ 3. Internal and peripheral landscaping locations showing landscape area sizes and overall dimensions of the various planting areas, providing calculations per Article 5.2.
- _____ 4. Approximate location of curb cuts, driveways, access roads, alleys, and parking areas indicating the number of spaces and all dimensions.
- _____ 5. Location of existing and proposed pedestrian walks, malls, yards, and open areas.
- _____ 6. Location, number, dimensions, character and orientation of all existing and proposed signs.
- _____ 7. Location and heights of all proposed buffers, fences, screens, and walls.
- _____ 8. Location of all existing and proposed buildings and structures with setback distances from the property lines and roadways.
- _____ 9. Location of all known existing and proposed water, sewer and irrigation mains including the point of connection to the existing system and buildings, if applicable, including:
 - a) Estimate of the average daily flow for potable water.
 - b) Estimate of the average daily flow of wastewater
 - c) Estimate of the average daily flow for irrigation water.
- _____ 10. Location of all known existing and proposed easements and /or right of way.
- _____ 11. Location of proposed outdoor lighting, showing direction, height and type.
- _____ 12. An exhibit providing the peak hour trip distribution at the project entrance and adjacent local streets out to a collector.
- _____ 13. Location and character of all outside waste disposal facilities and existing or proposed appropriate screening.
- _____ 14. Phasing Plan: Where a project will be developed in phases, a Phasing Plan shall be presented for review of the entire project. Proposed development phases shall be numbered in sequence, and shall indicate the density for residential and/or floor area for non-residential uses, as applicable, for each phase. The phasing plan shall identify size, location, sequence and timing of the various phases of the development.

ADDITIONAL INFORMATION

Sheet # of
submitted
plans:

- _____ 1. **Landscape Maintenance:**
The proposed method of assuring the provision and permanent maintenance of areas required for landscaping, screening, and common uses, including a proposed statement of such assurance. The coordinated development of the site shall be compatible with the surrounding area.
- _____ 2. **Maintenance Assurance:**
The proposed method of assuring the perpetual ownership and maintenance of areas within the project that area to be used for open space, recreation or other quasi-public purposes, including a detailed statement of such assurance, including covenants, agreements or other specific documents as required.
- _____ 3. **If seeking Subdivision approval; Covenants:**
Copies of proposed restriction or protective covenants, if any.
- _____ 4. **Economics:**
The Commission or City Council, as applicable, may also require that the applicant provide additional supporting data, such as economic justification, financing, and construction scheduling, topographic data or similar information when deemed necessary for project review.
- _____ 5. **Vacation of Plat**
In the case of vacation of plats submitted in conjunction with a PDP, the following additional information shall be required:
- a. Affidavits of city and county tax collectors stating that all city and county taxes levied against land covered by the portion of the plat of which vacation is sought have been paid;
 - b. Sketches and descriptions; and
 - c. Letter of no objection from the following utilities:
 - i. Lee County Electric Cooperative, Inc (LCEC)
 - ii. Century Link Telephone Company
 - iii. Comcast Cable Company

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

**Sheet # of
submitted
plans**

The Subdivision Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following with accurate dimensions to the nearest one-hundredth of a foot. If flexibility is requested for property lines prior to Plat recording, this request must be requested in the Letter of Intent (LOI).

- _____ 1. Contours at an interval of not greater than one foot.
- _____ 2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.
- _____ 3. Setback lines, permanent open space, recreation areas, separation strips, existing and proposed landscape areas and general land use activity areas.
- _____ 4. Location of areas and their acreages, if any, to be reserved or dedicated for public parks, playgrounds, schools, or other public uses, including bikeways or walks.
- _____ 5. Proposed lot numbers, lot lines, lot dimensions, lot areas, lot descriptions, lot locations, minimum yard requirements, and any other appropriate data and information for areas or parcels within the project property lines which have been designated for subdivision for any purpose or use.
- _____ 6. Utility locations on and adjacent to the project showing proposed dimensions and connections to existing utility systems.
- _____ 7. All dimensions, angles, bearings and similar data on the plan shall be tied to primary control points approved by the City Engineer. The location and description of said control points shall be given.
- _____ 8. Approximate location of proposed and existing surface water management system components including treatment, storage, conveyance, and discharge locations.
- _____ 9. Project boundary lines, right-of-way lines of streets, waterways, easements and other rights-of-way. Bearings or deflection angles, radii, arcs and central angles of all curves with dimensions to the nearest minute shall be provided for the center line of all streets and easements. Block corner radii dimensions shall also be shown.
- _____ 10. Name of each street, waterway, easement or other right-of-way and the designation of all buildings, parking areas, access roads, permanent open spaces, recreation areas, separation strips, landscaped areas, dedication or reserved areas, and other land use activity areas by name, use, purpose or other appropriate method as well as by width, length, land area or floor area devoted to such use or purpose.
- _____ 11. Certification of title and dedication, on plat, showing that the applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use, if any.
- _____ 12. Certification by the City Engineer, on plat, that a surety bond, certified check or other guarantee has been posted with the City in sufficient amount to assure completion of all such required site improvements.
- _____ 13. Certificate of approval for recording, on plat, suitable to be signed by the Mayor as applicable, to indicate that the plan has been approved for recording.
- _____ 14. Any other appropriate certification required by the Governing Body or Necessary to comply with Florida Statutes, Chapter 177.

Planned Development Project (PDP) Application Fees *

| | Administrative Review | Fees | Your Costs |
|--------------------------|--|--|------------|
| <input type="checkbox"/> | PDP - without Subdivision | \$2,525.00 | \$ |
| <input type="checkbox"/> | ** Additional charge for PDP's in excess of ten (10) acres: _____ acres x \$55.00 for each acre or portion thereof in excess of 10 acres. | (with maximum cap of \$3,625.00 for additional acres) | \$ |
| <input type="checkbox"/> | PDP - with Subdivision | \$2,815.00 | \$ |
| <input type="checkbox"/> | ** Additional charge for PDP's in excess of ten (10) acres: _____ acres x \$55.00 for each acre or portion thereof in excess of 10 acres. | (with maximum cap of \$3,915.00 for additional acres) | \$ |
| | | | |
| | Fire Review | | |
| <input type="checkbox"/> | Fire review (mandatory) | \$104.00 | \$ |
| | | | |
| Public Hearing | | | |
| <input type="checkbox"/> | PDP - without Subdivision | \$665.00 | \$ |
| <input type="checkbox"/> | PDP - with Subdivision | \$1,415.00 | \$ |
| <input type="checkbox"/> | Zoning Amendment within PDP | \$1,165.00 | \$ |
| <input type="checkbox"/> | Vacation of Plat within PDP | \$880.00 | \$ |
| <input type="checkbox"/> | Variance/Deviation within PDP | \$1,250.00 | \$ |
| <input type="checkbox"/> | Special Exception within PDP | \$1,365.00 | \$ |
| <input type="checkbox"/> | Borrow Pit within PDP | \$1,725.00 | \$ |
| | | Total | \$ |
| | | | |

* Advertising fees will be due at time of advertising.

** PDP – Acres x \$55.00 for each acre or portion thereof in excess of 10 acres (i.e. A 20.2 acre of land is calculated as follows.
20.2 – 10.00 = 10.2, then the 10.2 acres is rounded up to 11 acres)

November 1, 2018

**LETTER OF DEVIATION REQUESTS
CAPE 84 ACRES
PLANNED DEVELOPMENT PROJECT**



Deviation #1 - LDR Section # 3.1.2.A.3.b(6)

The applicant is requesting a deviation from LDR Section 3.1.2.A.3.b(6) where no sun shelter shall extend beyond the limits of any dock or seawall. This deviation will allow a sun shelter / gazebo to be placed directly over a body of water.

Justification and impact:

Due to the nature of the project and the opportunities to utilize the existing lake features on the site, it is the applicant's intentions to construct picnic type sun shelters/gazebo's with the lake area for the use of the residences of the project. These structures will be accessible via kayak's, canoe's or other similar non-motorized boat types. This request meets the intent of LDR Section 4.2.5. to provide usable common open space to compensate for decreases in typical yard requirements and the provision of public spaces.

Deviation #2 - LDR Section #3.16.4 & 5

The applicant is requesting a deviation from LDR Section 3.16.4 & 5 requiring mandatory sea walls with property having direct and immediate access on any body of water the entire frontage exposed to contact with the water. This deviation is requesting that slopes are allowable along the lake edge meeting the requirements of the South Florida Water Management District.

Justification and impact:

As explained within the letter of intent of the project, the site is utilizing creative building techniques and proposes residential units to be cantilevered over the existing water bodies. In some instances, the units will be completely located over the water with connections to land via boardwalks. It is the applicant's intent to utilize both natural lake slopes and bulkheads/seawalls on the project accordingly. This request meets the intent of LDR Section 4.2.5 as it provides for the location of dwellings in a manner that maximizes open space upland areas for the enjoyment of the community.

Deviation #3 - LDR Section #5.2.13.A

The applicant is requesting a deviation from LDR Section 5.2.13.1 where all sites shall have at least one canopy tree for each 1,000 s.f. of gross land area. This deviation is to allow for a reduction of this requirement to allow for one canopy tree for 1,500 s.f. of development area.

Justification and impact:

Out of the 84 acres on the site, 56 acres are existing water bodies. The site is required to have 3,690 trees on the site. Based on the proposed development plan and existing features remaining there is not enough land area on the site to accommodate that many trees. It would not benefit the project and would not benefit the health of any tree planted. This request meets the intent of this Code section as well as LDR Section 4.2.K by providing integration of natural resources in a sustainable manner. The reduced planting will ensure adequate light, air and space for the continued health of the planted trees. It will provide site and community beautification in a manner that will support the overall purpose of the landscaping Code.

Deviation #4 - LDR Section #5.2.13.C.1

The applicant is requesting a deviation from LDR Section 5.2.13.C.1 where foundation landscaping is required for new buildings to allow for plantings along the shoreline adjacent to the boardwalks, sidewalks and parking areas for those units proposed over water.

Justification and impact:

There is no planting area at the front of the units that are located over the water. Based on the cross section provided on Sheet C-03, plantings along the shoreline, boardwalks, sidewalks and parking areas will

compensate for foundation plantings on these units. This request meets the intent of LDR Section 4.2.K in that it provides for the open space enjoyment of the community.

Deviation #5 - LDR Section #5.2.13.C.5

The applicant is requesting a deviation from LDR Section 5.2.13.C.5 where a Type 'A' buffer is required between a multi-family zoning and single-family zoning. The deviation would eliminate the Type 'A' buffer along the eastern property line where the existing lake (shared between Sandoval) occurs. This buffer is 1,311 linear feet and only 427 feet can be planted.

Justification and impact:

Due to the location of the existing water bodies along the eastern property line, there is not any physical land available to plant the required buffer. The buffer length is 1,311 linear feet and only 427 feet can be planted. The attached landscape plan depicts the buffer location. This request meet the intent of LDR Section 4.2.K through the preservation of the lake as open space and beautification.

If you should have any comments or concerns, please do not hesitate to contact us at (239) 226-0024 or brians@en-site.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'BRS', with a horizontal line extending from the end.

Brian R. Smith
Project Manager

CC: Mr. Charles Tapalian

PLAT PROPERTY INFORMATION REPORT

Showing Information Required by F.S. 177.041 Prior to Platting Lands

Issuer: Attorneys' Title Fund Services, LLC and Roetzel & Andress, L.P.A.

Recipient: MSI Holdings, LLC, a Rhode Island limited liability company, and City of Cape Coral, Florida

Fund File Number: 653477

Provided For: Roetzel & Andress, L.P.A.

Agent's File Reference: 133742.0026

Effective Date of Search: October 3, 2018 at 11:00 PM

Description of Real Property Situated in Lee County, Florida:

Legal Description

The Southwest Quarter (SW 1/4) of Section 29, Township 44 South, Range 23 East, lying Easterly of Veterans Parkway, Lee County, Florida.

LESS AND EXCEPT that portion thereof as conveyed to the City of Cape Coral by Warranty Deed recorded in Official Record Book 2910, Page 2470, of the Public Records of Lee County, Florida.

Record Title Vested in:

MSI Holdings, LLC, a Rhode Island limited liability company, by Warranty Deed and Quit Claim Deeds recorded in Instrument Number 2017000170397, Instrument Number 2017000170398, Instrument Number 2017000170399 and Instrument Number 2017000171543, Public Records of Lee County, Florida.

Prepared Date: October 31, 2018

Prepared by: Teresa McConnell, Senior Examiner

Phone Number: (800) 526-3855 x6807

Email Address: TMcConnell@TheFund.com

Attorneys' Title Fund Services, LLC



Cyndi Bolyard, Branch Manager

PLAT PROPERTY INFORMATION REPORT

Fund File Number: 653477

The following mortgages are all the mortgages of record that have not been satisfied or released of record nor otherwise terminated by law:

1. Nothing Found

Other encumbrances affecting the title:

1. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.
2. Riparian and littoral rights are not insured.
3. Any portion of the Land lying waterward of the ordinary high water mark of lakes, and lands accreted thereto.
4. Rights of the lessees under unrecorded leases.
5. Ordinance 16-85 recorded in O.R. Book 1779, Page 1603, Public Records of Lee County, Florida.
6. Easement contained in instrument recorded June 15, 1988, under O.R. Book 1996, Page 2336, Public Records of Lee County, Florida.
7. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281 and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
8. Special Deed of Conservation Easement recorded in O.R. Book 3416, Page 4514, as corrected in O.R. Book 3681, Page 4579, Public Records of Lee County, Florida.
9. Easement contained in instrument recorded July 2, 2002, under O.R. Book 3678, Page 3047 and O.R. Book 3678, Page 3052, Public Records of Lee County, Florida.
10. FOR INFORMATIONAL PURPOSES ONLY, it is not clear that real property taxes for the year 2017, pursuant to tax sale certificate no. 18-030840 have been redeemed by, or paid on behalf of, the taxpayer.

This search is provided pursuant to the requirements of section 177.041, F.S. for the uses and purposes specifically stated therein and is not to be used as the basis for issuance of an insurance commitment and/or policy.

The information contained herein is furnished for information only.

This report is not title insurance. Pursuant to s. 627.7843, Florida Statutes, the maximum liability of the issuer of this property information report for errors or omissions in this property information report is limited to the amount paid for this property information report, and is further limited to the person(s) expressly identified by name in the property information report as the recipient(s) of the property information report.

Prepared by:

Pete Doragh
12734 Kenwood Lane, Suite 15
Fort Myers, Florida 33907

When recorded return to:

Pete Doragh
12734 Kenwood Lane, Suite 15
Fort Myers, Florida 33907

(Space above this line reserved for recording office use only)

WARRANTY DEED

1. IDENTIFICATION OF GRANTOR

Grantor's name and address is: Matthew T. Muller, individually and as Successor
Trustee of the G&M Trust, under a Land Trust
Agreement dated January 20, 2009.
5782 Beechwood Trail
Fort Myers, Florida 33919

The word "I" or "me" as hereafter used means the Grantor.

2. IDENTIFICATION OF GRANTEE

Grantee's name and address is: MSI Holdings, LLC, a Rhode Island limited liability
company
100 North Main Street
Providence, Rhode Island 02903

The word "you" as hereafter used means the Grantee.

3. MEANINGS OF TERMS

The terms "I," "me," "you," "grantor," and "grantee," shall be non-gender specific ((i) masculine, (ii) feminine, or (iii) neuter, such as corporations, partnerships or trusts), singular or plural, as the context permits or requires, and include heirs, personal representatives, successors or assigns where applicable and permitted.

4. DESCRIPTION OF REAL PROPERTY CONVEYED

Attached Exhibit A

The Property Appraiser's Parcel Identification Number is 29-44-23-C4-00002.0010 and
29-44-23-C4-00002.0000.

5. CONSIDERATION

Good and valuable consideration plus the sum of Ten Dollars (\$10.00) received by me from you.

6. CONVEYANCE OF REAL PROPERTY

For the consideration described in Paragraph 5, I have granted, bargained and sold to you the Real Property to have and to hold in fee simple (estate in property unlimited as to duration, disposition and descendability) forever.

7. WARRANTY

I fully warrant the title to the Real Property and will defend the same against the lawful claims of all persons whomsoever.

8. Homestead,

The Real Property is not now nor has ever been my homestead or the homestead of any member of my family.

9. EXCEPTIONS

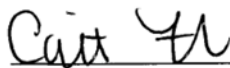
This conveyance is subject to all matters of record and taxes for year 2016 and subsequent years.

Executed on August 3rd, 2017.



Matthew T. Muller, individually and
Successor Trustee of the G&M Trust,
under a Land Trust Agreement
dated January 20, 2009

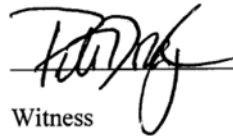
Signed in the presence of:



Witness

8/3/17
(Date)

Signed in the presence of:



Witness

8/3/17
(Date)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 3rd day of August, 2017, by Matthew T. Muller, Successor Trustee of the G&M Trust, under a Land Trust Agreement dated January 20, 2009, and individually who is personally known to me or has produced _____ as identification.

Caitlyn

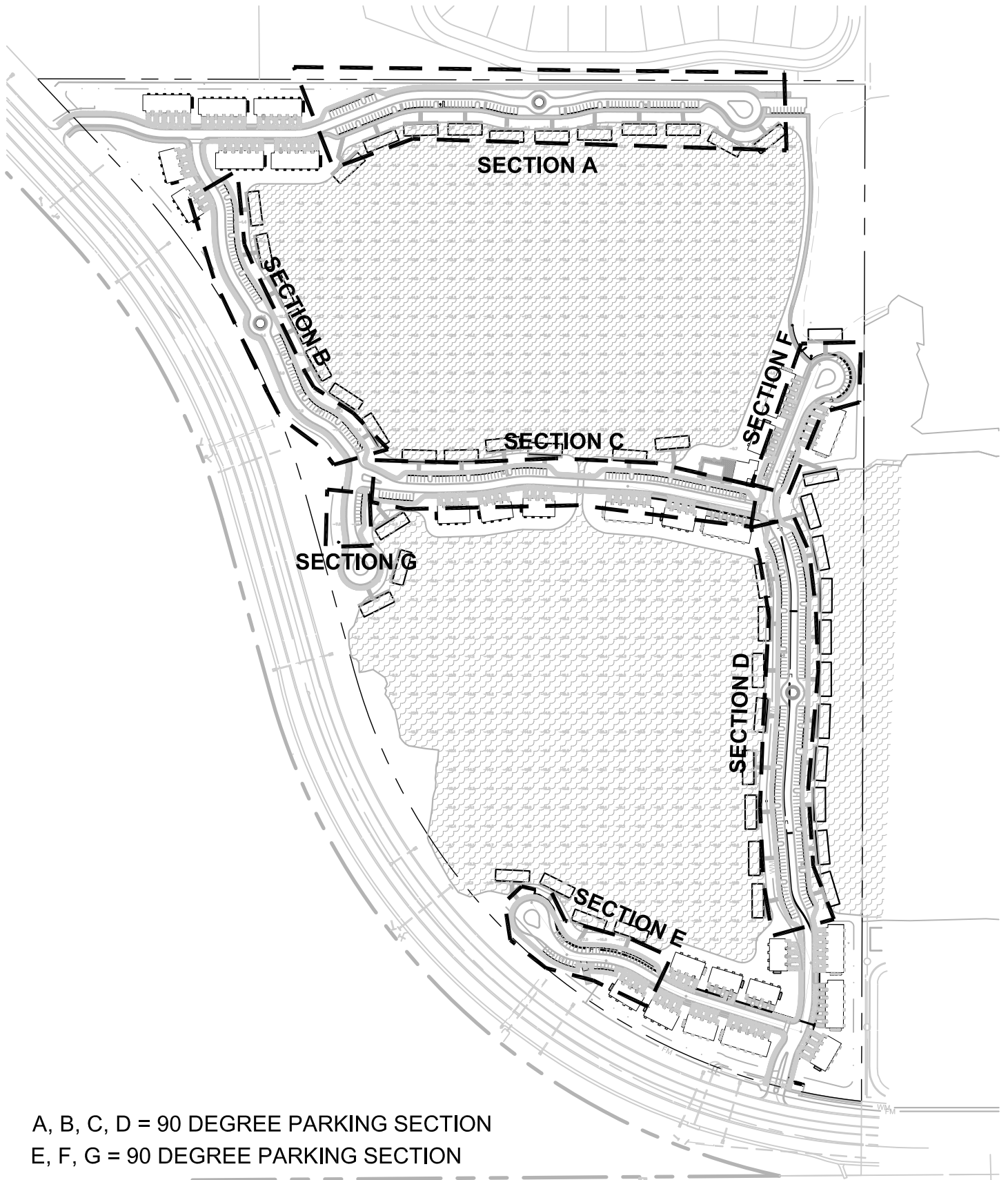
Notary Public - State of Florida

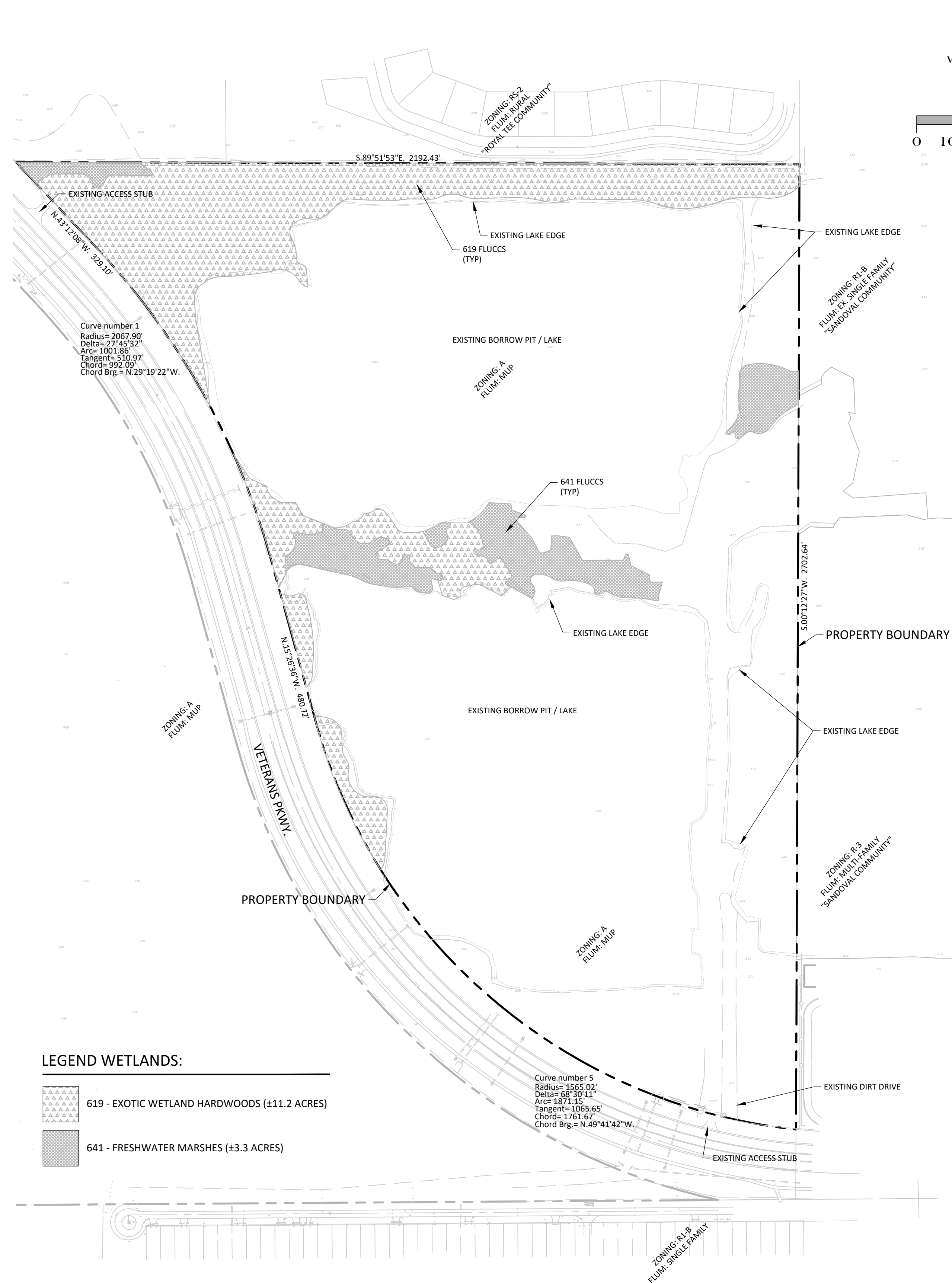


Exhibit A
Legal Description

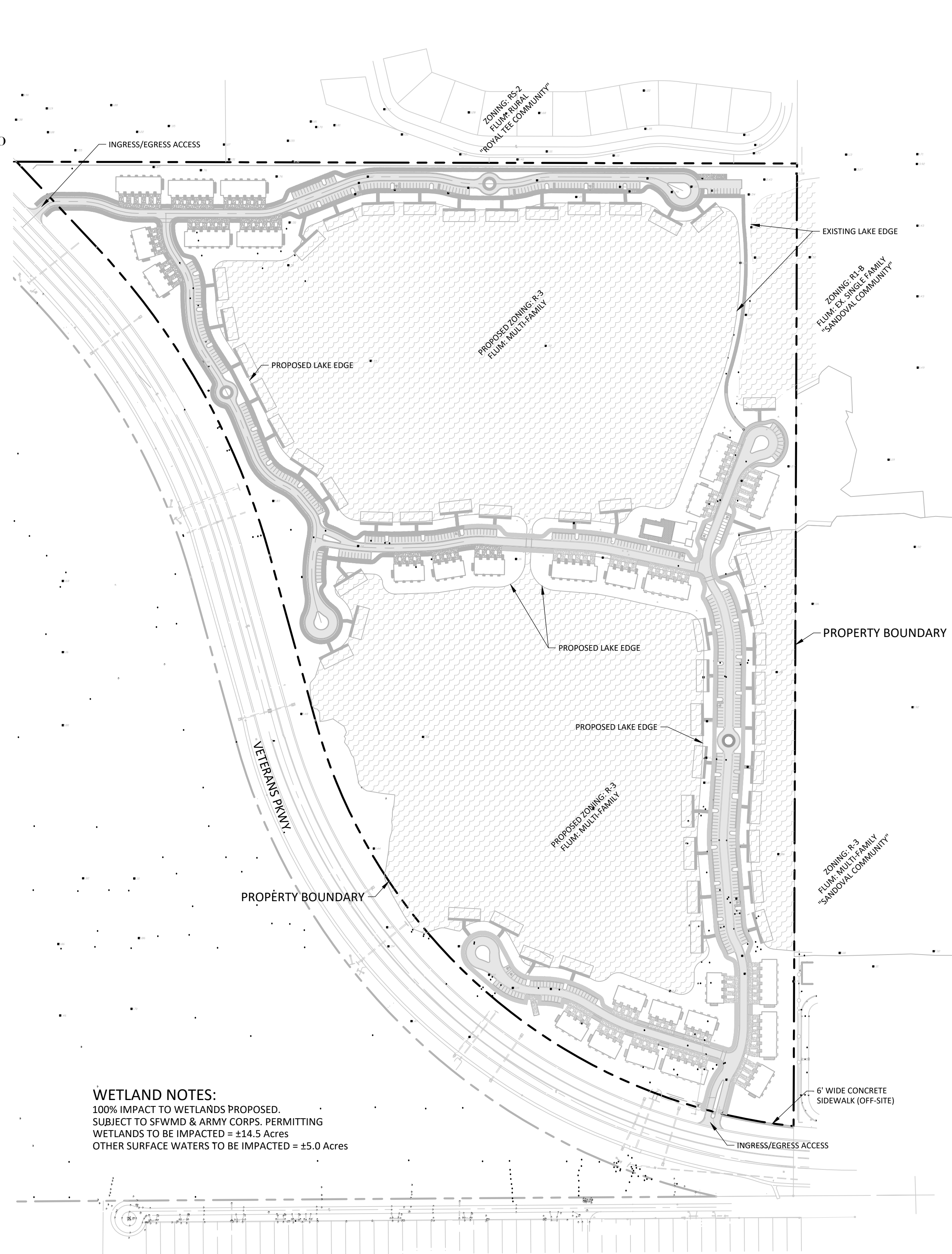
The Southwest Quarter (SW 1/4) of Section 29, Township 44 South, Range 23 East, Lee County, Florida.

LESS AND EXCEPT that portion thereof as conveyed to the City of Cape Coral by Warranty Deed recorded in Official Record Book 2910, Page 2470, of the Public Records of Lee County, Florida.





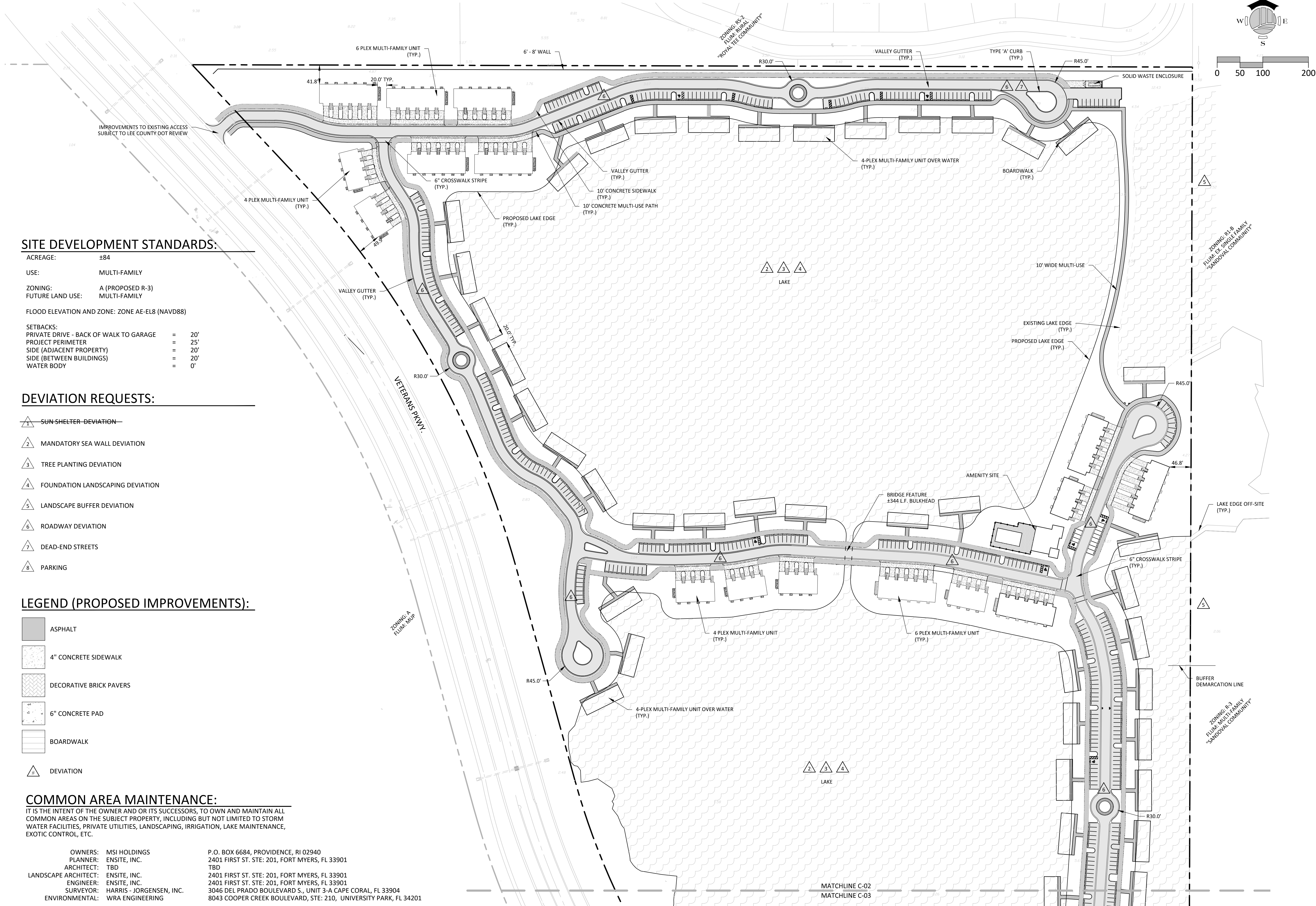
EXISTING CONDITIONS - TOTAL SITE ±84 ACRES



PROPOSED OVERALL SITE PLAN

| REVISIONS | | DATE |
|-----------|---------------------------------|----------|
| NO. | DESCRIPTION | |
| R1 | PER CITY OF CAPE CORAL COMMENTS | 10-31-18 |
| R2 | PER CITY OF CAPE CORAL COMMENTS | 2-13-19 |
| R3 | PER CITY OF CAPE CORAL COMMENTS | 6-4-19 |
| R4 | PER CITY OF CAPE CORAL COMMENTS | 8-13-19 |
| R5 | | |
| R6 | | |

| | |
|-------------|-----------------|
| DATE: | 7-6-18 |
| PROJECT NO. | 1349-04 |
| FILE NO. | 1349-04-XCM.dwg |
| SCALE: | AS SHOWN |



SITE DEVELOPMENT STANDARDS:

ACREAGE: ±84
USE: MULTI-FAMILY
ZONING: A (PROPOSED R-3)
FUTURE LAND USE: MULTI-FAMILY
FLOOD ELEVATION AND ZONE: ZONE AE-EL8 (NAVD88)
SETBACKS:
PRIVATE DRIVE - BACK OF WALK TO GARAGE = 20'
PROJECT PERIMETER = 25'
SIDE (ADJACENT PROPERTY) = 20'
SIDE (BETWEEN BUILDINGS) = 20'
WATER BODY = 0'

DEVIATION REQUESTS:

- 1. SUN SHELTER DEVIATION
- 2. MANDATORY SEA WALL DEVIATION
- 3. TREE PLANTING DEVIATION
- 4. FOUNDATION LANDSCAPING DEVIATION
- 5. LANDSCAPE BUFFER DEVIATION
- 6. ROADWAY DEVIATION
- 7. DEAD-END STREETS
- 8. PARKING

LEGEND (PROPOSED IMPROVEMENTS):

- ASPHALT
- 4" CONCRETE SIDEWALK
- DECORATIVE BRICK PAVERS
- 6" CONCRETE PAD
- BOARDWALK
- DEVIATION

COMMON AREA MAINTENANCE:

IT IS THE INTENT OF THE OWNER AND OR ITS SUCCESSORS, TO OWN AND MAINTAIN ALL COMMON AREAS ON THE SUBJECT PROPERTY, INCLUDING BUT NOT LIMITED TO STORM WATER FACILITIES, PRIVATE UTILITIES, LANDSCAPING, IRRIGATION, LAKE MAINTENANCE, EXOTIC CONTROL, ETC.

OWNERS: MSI HOLDINGS
PLANNER: ENSITE, INC.
ARCHITECT: TBD
LANDSCAPE ARCHITECT: ENSITE, INC.
ENGINEER: ENSITE, INC.
SURVEYOR: HARRIS - JORGENSEN, INC.
ENVIRONMENTAL: WRA ENGINEERING
P.O. BOX 6684, PROVIDENCE, RI 02940
2401 FIRST ST. STE: 201, FORT MYERS, FL 33901
TBD
2401 FIRST ST. STE: 201, FORT MYERS, FL 33901
2401 FIRST ST. STE: 201, FORT MYERS, FL 33901
3046 DEL PRADO BOULEVARD S., UNIT 3-A CAPE CORAL, FL 33904
8043 COOPER CREEK BOULEVARD, STE: 210, UNIVERSITY PARK, FL 34201



MSI HOLDINGS
P.O. BOX 6684
PROVIDENCE, RI
02940

84 ACRES
CAPE CORAL, FLORIDA

REVISIONS

| NO. | DESCRIPTION | DATE |
|-----|---------------------------------|----------|
| R1 | PER CITY OF CAPE CORAL COMMENTS | 10-31-18 |
| R2 | PER CITY OF CAPE CORAL COMMENTS | 2-13-19 |
| R3 | PER CITY OF CAPE CORAL COMMENTS | 6-4-19 |
| R4 | | |
| R5 | | |
| R6 | | |

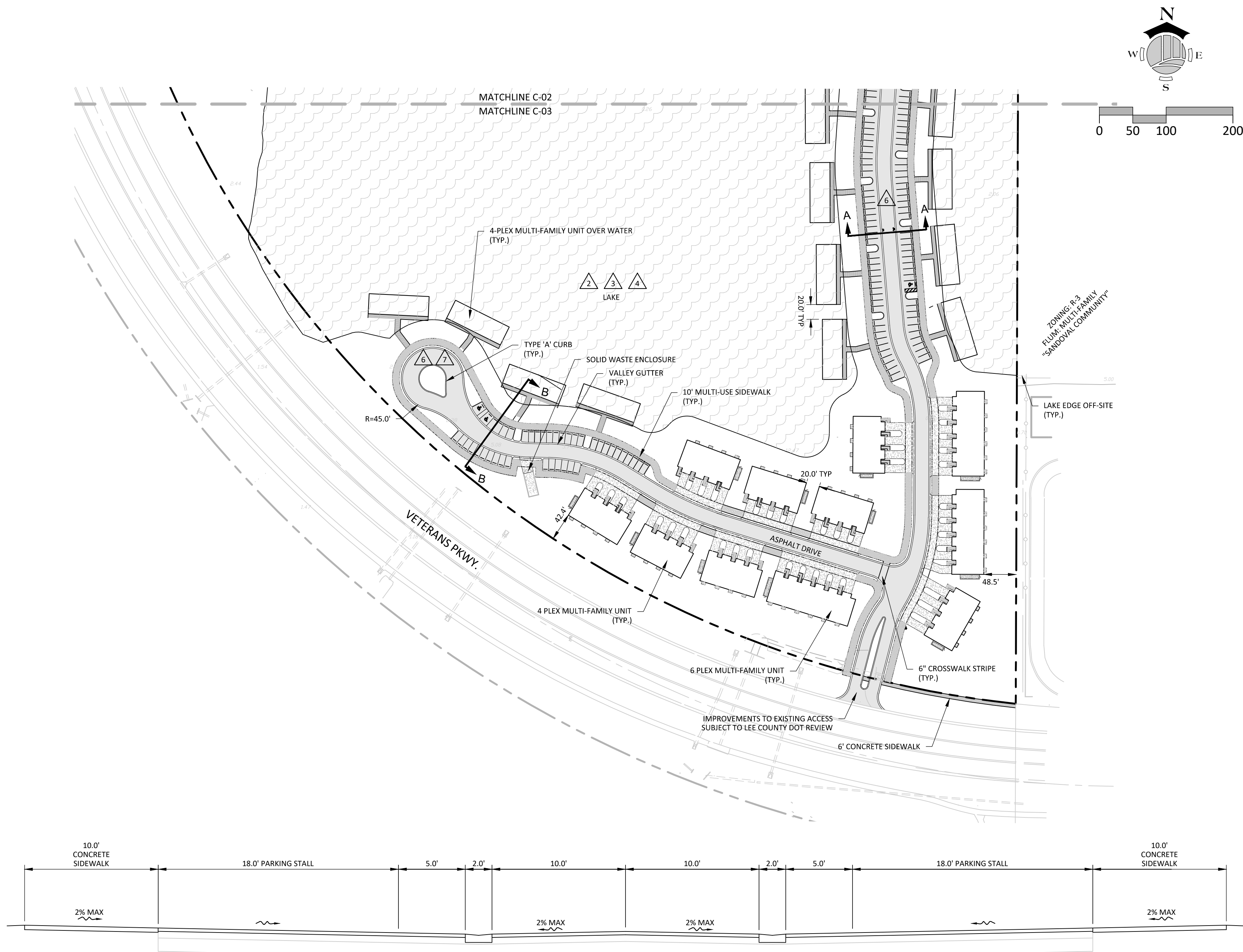
DATE: 7-6-18
PROJECT NO. 1349-04
FILE NO. 1349-04-MAS.dwg
SCALE: AS SHOWN

PDP MASTER
PLAN

C-02

| REVISIONS | | DATE |
|-----------|---------------------------------|---------|
| NO. | DESCRIPTION | |
| R1 | PER CITY OF CAPE CORAL COMMENTS | 11-1-18 |
| R2 | PER CITY OF CAPE CORAL COMMENTS | 2-13-19 |
| R3 | PER CITY OF CAPE CORAL COMMENTS | 6-4-19 |
| R4 | | |
| R5 | | |
| R6 | | |

| | |
|-------------|-----------------|
| DATE: | 7-6-18 |
| PROJECT NO. | 1349-04 |
| FILE NO. | 1349-04-MAS.dwg |
| SCALE: | AS SHOWN |



SITE DEVELOPMENT STANDARDS:

| | |
|--|-----------------------------|
| ACREAGE: | ±84 |
| USE: | MULTI-FAMILY |
| ZONING: | A (PROPOSED R-3) |
| FUTURE LAND USE: | MUP (PROPOSED MULTI-FAMILY) |
| FLOOD ELEVATION AND ZONE: | ZONE AE-EL8 (NAVD88) |
| SETBACKS: | |
| PRIVATE DRIVE - BACK OF WALK TO GARAGE | = 20' |
| OFF-SITE R.O.W. | = 25' |
| SIDE (ADJACENT PROPERTY) | = 20' |
| SIDE (BETWEEN BUILDINGS) | = 20' |
| WATER BODY | = 0' |
| PROJECT PERIMETER | = 25' |

DEVIATION REQUESTS:

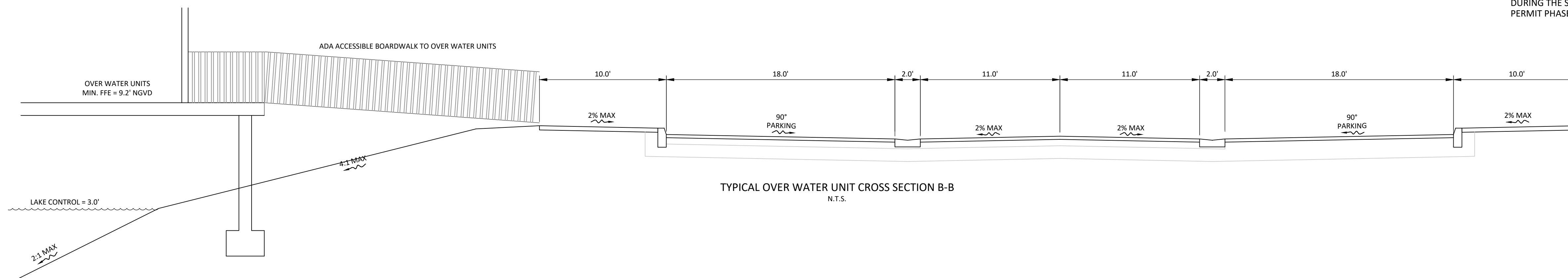
- SUN SHELTER DEVIATION
- MANDATORY SEA WALL DEVIATION
- TREE PLANTING DEVIATION
- FOUNDATION LANDSCAPING DEVIATION
- LANDSCAPE BUFFER DEVIATION
- ROADWAY DEVIATION
- DEAD-END STREETS
- PARKING

LEGEND (PROPOSED IMPROVEMENTS):

- ASPHALT
- 4" CONCRETE SIDEWALK
- DECORATIVE BRICK PAVERS
- 6" CONCRETE PAD
- BOARDWALK
- DEVIATION

NOTE:

UTILITIES, DRAINAGE AND EASEMENTS SHALL BE PROVIDED AND ESTABLISHED DURING THE SITE DEVELOPMENT AND WATER MANAGEMENT DISTRICT PERMIT PHASE.





PHASING:

TOTAL UNITS ±336 UNITS (78 BUILDINGS)

PHASE I:
26 BLDGS (4-PLEX OVER WATER) = 104 UNITS
10 BLDGS (4-PLEX LAND UNITS) = 40 UNITS
7 BLDGS (6-PLEX LAND UNITS) = 42 UNITS
TOTAL UNITS = 186 UNITS

PHASE II:
11 BLDGS (4-PLEX OVER WATER) = 44 UNITS
2 BLDGS (4-PLEX LAND UNITS) = 8 UNITS
5 BLDGS (6-PLEX LAND UNITS) = 30 UNITS
TOTAL UNITS = 82 UNITS

PHASE III:
14 BLDGS (4-PLEX OVER WATER) = 56 UNITS
3 BLDGS (4-PLEX LAND UNITS) = 82 UNITS
TOTAL UNITS = 68 UNITS

8 **PARKING:**
PHASE I:
104 2-BEDROOM UNITS = 104 X 2 = 208 PARKING STALLS
82 3-BEDROOM UNITS = 82 X 2 = 164 PARKING STALLS
TOTAL PARKING = 372 PARKING STALLS
PARKING PROVIDED = 386 PARKING STALLS

PHASE II:
44 2-BEDROOM UNITS = 44 X 2 = 88 PARKING STALLS
38 3-BEDROOM UNITS = 38 X 2 = 76 PARKING STALLS
TOTAL PARKING = 164 PARKING STALLS
PARKING PROVIDED = 214 PARKING STALLS

PHASE III:
56 2-BEDROOM UNITS = 56 X 2 = 112 PARKING STALLS
12 3-BEDROOM UNITS = 12 X 2 = 24 PARKING STALLS
TOTAL PARKING = 136 PARKING STALLS
PARKING PROVIDED = 118 PARKING STALLS

TOTAL PARKING (ALL PHASES) = 672 PARKING STALLS
10% PARKING FOR GUESTS = 50 PARKING STALLS
TOTAL PARKING REQUIRED = 722 PARKING STALLS
TOTAL PARKING PROVIDED = 777 PARKING STALLS

SITE WORK CONSTRUCTION:
PHASE I
186 UNITS (43 BUILDINGS)
AMENITY SITE
INFRASTRUCTURE
ESTABLISH LAKE BANK FOR ENTIRE PROJECT
TEMPORARY CONSTRUCTION ROADS TO FUTURE PHASES

PHASE II
82 UNITS (18 BUILDINGS)
INFRASTRUCTURE

PHASE III
68 UNITS (17 BUILDINGS)
INFRASTRUCTURE

NOTE:
APPLICANTS / OWNER RESERVES THE RIGHT TO ALTER PHASES OF DEVELOPMENT WITHOUT THE NEED FOR A PDP AMENDMENT.



MSI HOLDINGS
P.O. BOX 6684
PROVIDENCE, RI
02940

84 ACRES
CAPE CORAL, FLORIDA



| REVISONS | | DATE |
|----------|---------------------------------|----------|
| NO. | DESCRIPTION | |
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| R5 | | |
| R6 | | |

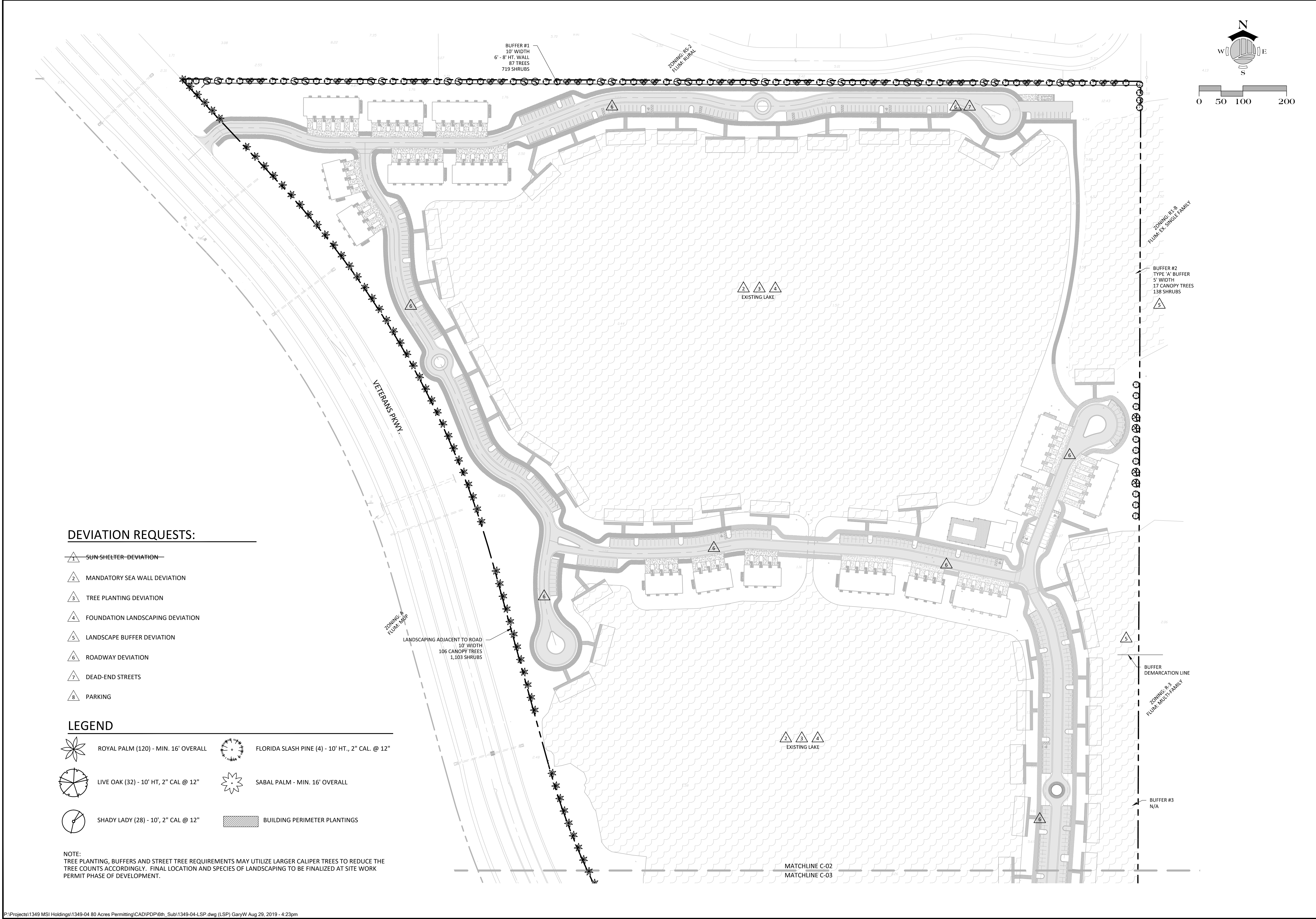
| | |
|-------------|-------------------|
| DATE: | 7-6-18 |
| PROJECT NO. | 1349-04 |
| FILE NO. | 1349-04-PHASE.dwg |
| SCALE: | AS SHOWN |

MASTER
PHASING PLAN

C-04

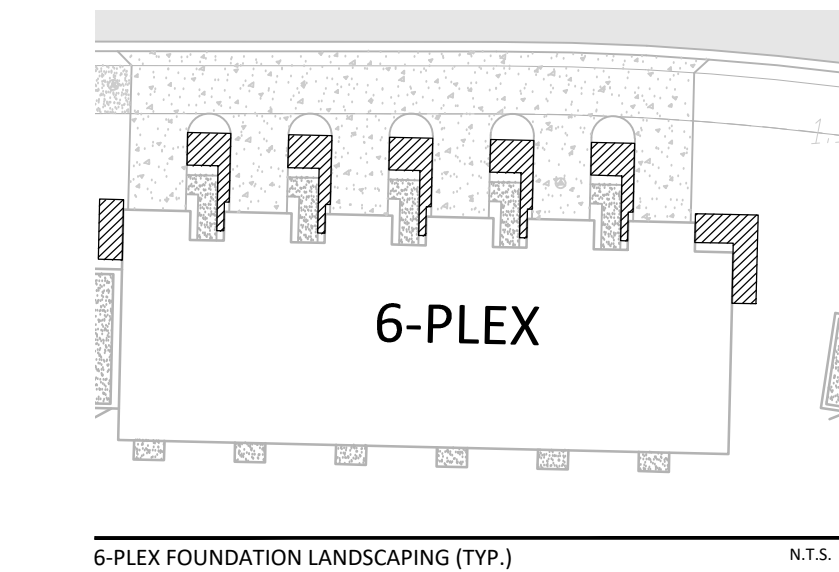
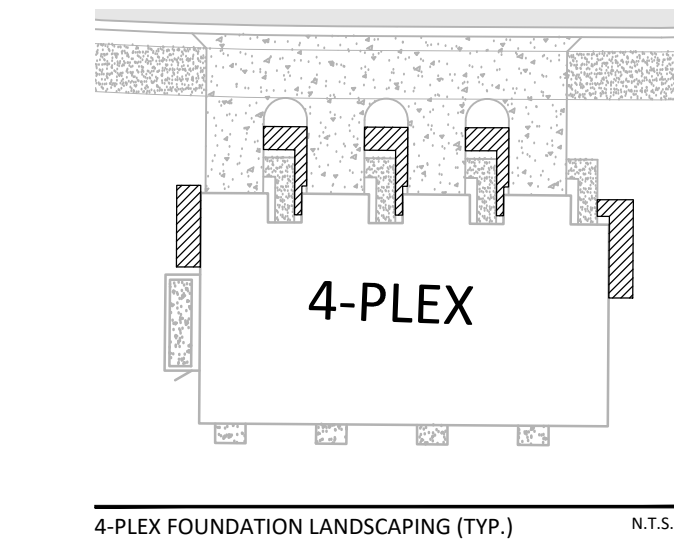
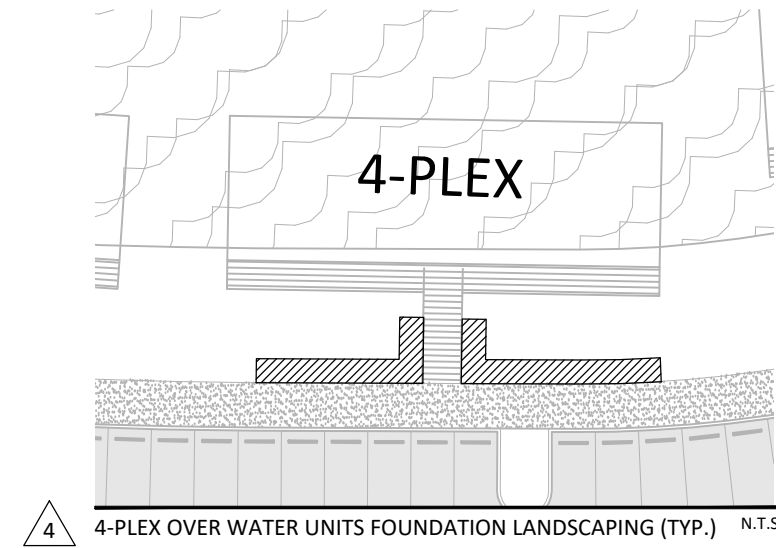
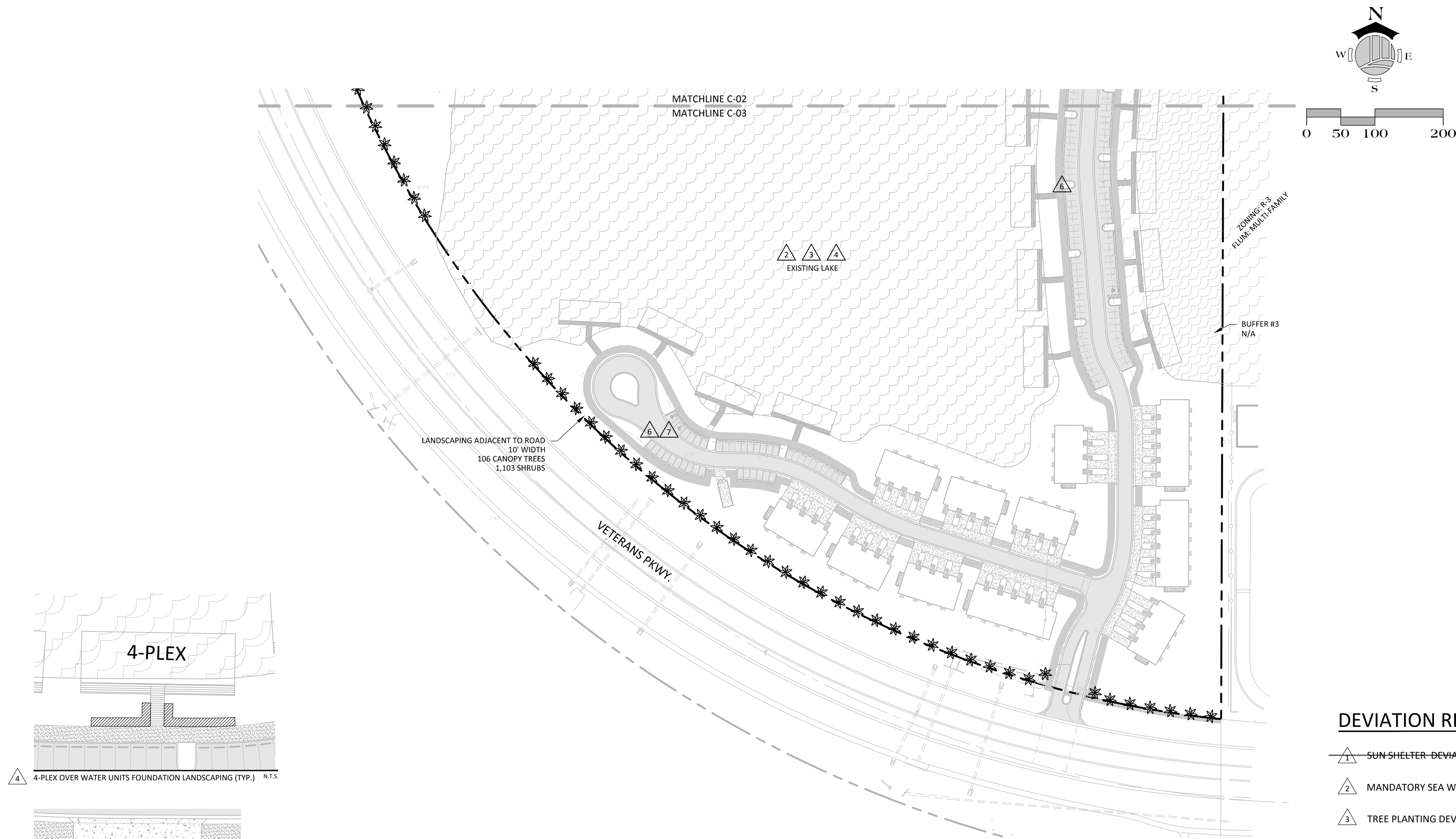
| NO. | REVISIONS | DESCRIPTION | DATE | |
|-----|-----------|---------------------------------|---------|---------|
| | | | 11-1-18 | 11-1-18 |
| R1 | | PER CITY OF CAPE CORAL COMMENTS | 2-13-19 | |
| R2 | | PER CITY OF CAPE CORAL COMMENTS | 6-4-19 | |
| R3 | | PER CITY OF CAPE CORAL COMMENTS | 8-13-19 | |
| R4 | | PER CITY OF CAPE CORAL COMMENTS | | |
| R5 | | | | |
| R6 | | | | |

| | |
|-------------|-----------------|
| DATE: | 7-6-18 |
| PROJECT NO. | 1349-04 |
| FILE NO. | 1349-04-LSP.dwg |
| SCALE: | AS SHOWN |



| NO. | REVISIONS | DESCRIPTION | DATE | |
|-----|-----------|---------------------------------|---------|---------|
| | | | 11-1-18 | 11-1-18 |
| R1 | | PER CITY OF CAPE CORAL COMMENTS | 2-13-19 | |
| R2 | | PER CITY OF CAPE CORAL COMMENTS | 6-4-19 | |
| R3 | | PER CITY OF CAPE CORAL COMMENTS | 8-13-19 | |
| R4 | | | | |
| R5 | | | | |
| R6 | | | | |

| | |
|-------------|-----------------|
| DATE: | 7-6-18 |
| PROJECT NO. | 1349-04 |
| FILE NO. | 1349-04-LSP.dwg |
| SCALE: | AS SHOWN |



SITE DEVELOPMENT LANDSCAPING CALCULATIONS:

3. TREE PLANTING REQUIREMENTS:
PER DEVIATION REQUEST, 1 CANOPY TREE PER 1,000 SQ. FT. OF DEVELOPABLE AREA =
TOTAL DEVELOPABLE AREA: 1,361,667 S.F.
1 TREE PER 1,000 SQ. FT. OF DEVELOPABLE AREA = 1,362 TREES REQUIRED
PROVIDED:
= 7 TREE PLANTING TREES
= 104 BUFFER TREES
= 106 ADJACENT TO ROADS
= 237 VEHICLE USE TREES
= 908 ADDITIONAL TREES TO BE PLANTED IN DEVELOPMENT
= 1,362 TOTAL PROVIDED

4. FOUNDATION LANDSCAPING:
PER SECTION 5.2.13.C.1, 10% OF GROSS GROUND LEVEL FLOOR AREA
AMENITY CENTER (3,505 S.F.) 351/9 = 39 SHRUBS
15 (4 PLEX LAND UNITS) = 3,909 x 10% = 391 /9 S.F. = 44 x 15 = 660 SHRUBS
15 (6 PLEX LAND UNITS) = 5,842 x 10% = 585 /9 S.F. = 65 x 15 = 975 SHRUBS
51 (4 PLEX OVERWATER) = 3,909 x 10% = 391 /9 S.F. = 44 x 51 = 2,244 SHRUBS
TOTAL SHRUBS REQUIRED = 3,918 SHRUBS
PROVIDED:
TOTAL SHRUBS = 3,918

5. LANDSCAPING ADJACENT TO ROADS:
PER SECTION 5.2.13.C.2.=
WEST:
VETERANS PKWY. (3,187 LINEAR FEET)
10' IN WIDTH REQUIRED - 10' WIDTH PROVIDED.
1 CANOPY TREE PER 30 L.F. OF FRONTAGE = 106 CANOPY TREES REQUIRED
1 SHRUB PER 3 L.F. OF FRONTAGE = 1,062 SHRUBS REQUIRED
PROVIDED = 106 CANOPY TREES
= 1,062 SHRUBS

6. UNCOVERED SURFACE PARKING AND VEHICULAR USE AREAS:
PER SECTION 5.2.13.C.3.=
10% OF THE TOTAL UNCOVERED SURFACE PARKING AND VEHICULAR USE AREAS:
354,924 S.F. X 10% = 35,492 S.F.
1 CANOPY TREE PER 150 S.F. OF PLANTING = 35,492 S.F. / 150 = 237 CANOPY TREES
PROVIDED = 35,492 S.F.
= 237 CANOPY TREES*

*LARGER TREES PROVIDED WITH ADDITIONAL 2" CALIPER

5. BUFFER YARDS:
PER SECTION 5.2.13.C.5.=
BUFFER #1 LANDSCAPING REQUIRED: (±2,174 LINEAR FEET)
NOT REQUIRED
PROPOSED:
20' WIDTH
6' - 8' WALL
4 CANOPY TREES PER 100 L.F. = 2,177 / 100 x 4 = 87 TREES PROVIDED
33 SHRUBS PER 100 L.F. = 2,177 / 100 x 33 = 719 SHRUBS PROVIDED

6. BUFFER #2 LANDSCAPING REQUIRED: (±1,300 LINEAR FEET)
DEVIATION REQUESTED FOR 419 L.F. TO BE PLANTED
ADJACENT USE - R-1B (TYPE 'A' BUFFER)
5' WIDTH & WALL REQUIRED
4 CANOPY TREES PER 100 L.F. = 4.19 X 4 = 17 TREES REQUIRED
33 SHRUBS PER 100 L.F. = 4.19 X 33 = 138 SHRUBS REQUIRED (SEE NOTE #2)
5' WIDTH PROVIDED
17 CANOPY TREES PROVIDED
138 SHRUBS PROVIDED

BUFFER #3 LANDSCAPING REQUIRED:
N/A MULTI-FAMILY TO MULTI-FAMILY
6. TOTAL LANDSCAPING REQUIREMENTS:
SITE LANDSCAPING TOTALS REQUIRED:
TREES 1,362 CANOPY TREES (50% NATIVE REQUIRED = 227)
SHRUBS 1,919 SHRUBS (30% NATIVE REQUIRED = 576)
INTERNAL LANDSCAPING 35,492 S.F.
BUILDING FOUNDATION LANDSCAPING 391 S.F. PER 4-PLEX, 585 PER 6-PLEX
MIN. 5 TREE SPECIES REQUIRED 5 REQ.

SITE LANDSCAPING TOTALS PROVIDED:
TREES 1,362 TREES COUNTED AS CANOPY (50% NATIVE REQUIRED)
SHRUBS 1,919 SHRUBS (30% NATIVE REQUIRED)
INTERNAL LANDSCAPING 35,492 S.F.
BUILDING FOUNDATION LANDSCAPING 3,918 SHRUBS (30% NATIVE REQUIRED)
MIN. 5 TREE SPECIES REQUIRED 5 TO BE UTILIZED

DEVIATION REQUESTS:

- 1. SUN SHELTER DEVIATION
- 2. MANDATORY SEA WALL DEVIATION
- 3. TREE PLANTING DEVIATION
- 4. FOUNDATION LANDSCAPING DEVIATION
- 5. LANDSCAPE BUFFER DEVIATION
- 6. ROADWAY DEVIATION
- 7. DEAD-END STREETS DEVIATION
- 8. PARKING DEVIATION

LEGEND

- ROYAL PALM (120) - MIN. 16' OVERALL
- FLORIDA SLASH PINE (4) - 10' HT., 2" CAL. @ 12"
- LIVE OAK (32) - 10' HT, 2" CAL @ 12"
- SABAL PALM - MIN. 16' OVERALL
- SHADY LADY (28) - 10', 2" CAL @ 12"
- BUILDING PERIMETER PLANTINGS

NOTE:

1. TREE SPECIES AND FINAL LOCATIONS SUBJECT TO CHANGE AND REVIEW PER PHASE OF DEVELOPMENT SITE PLAN PERMIT APPLICATIONS.
2. SHRUBS & GROUND COVER NOT SHOWN IN DETAIL. FINAL LANDSCAPE DESIGN SUBJECT TO PHASING & SITE PLAN PERMIT APPLICATIONS.
3. LANDSCAPING AREAS & BUFFERS SHALL BE MAINTAINED PERPETUITY BY OWNER AND OR ITS SUCCESSORS.
4. FOUNDATION, VEHICLE USE & BUFFER SHRUBS SHALL BE IN COMPLIANCE AND DETAIL SHOWN AT SITE DEVELOPMENT STAGE.

PLANNING DIVISION STAFF REPORT
PDP18-0008 – CAPE 84 ACRES

| | |
|--|--|
| SITE LOCATION North of Veterans Parkway West | APPLICANT/PROPERTY OWNER MSI Holdings, LLC |
|--|--|

| | |
|--|--|
| <p>SUMMARY OF PDP REQUESTS</p> <p>The applicant requests approval of a Planned Development Project (PDP) entitled “Cape 84 Acres” to develop a maximum of 336 units within three phases. The PDP requests Development Plan approval along with the approval of the following deviations:</p> <ol style="list-style-type: none"> 1) Deviation from LUDR, Section 3.1.2.A.3.b 2) Deviation from LUDR, Section 3.16.4, 3) Deviation from LUDR, Section 5.2.13.A, 4) Deviation from LUDR, Section 5.2.13.C.1, 5) Deviation from LUDR, Section 5.2.13.C.5, 6) Deviation from EDS, G-5 Cross, and 7) Deviation from EDS, Dead End Streets. | |
|--|--|

STAFF RECOMMENDATION: Approval

| | |
|---|--|
| Positive Aspects of Application: | Site has frontage on a major arterial. Development is surrounded by single and multi-family homes. The PDP is a “redevelopment” of an old borrow pit site. |
| Negative Aspects of Application: | The PDP involves several deviations including deviations for reduction of landscaping requirements. |
| Mitigating Factors: | The PDP demonstrates unique design and the landscape deviations are offset by enhanced landscaping throughout other areas of the development. |

SITE INFORMATION

Location: North of Veterans Parkway West and west of Veterans Parkway and Surfside Boulevard intersection.

South of Royal Tee Golf and Country Club / West of Sandoval

STRAP Number: 29-44-23-C4-00002.0000

Site Area: 84.47 acres

| Site: | Future Land Use | Zoning |
|------------------|--|--|
| Current: | Multi-Family Residential (MF) | Residential Multi-Family Low (RML) |
| Proposed: | N/A | N/A |
| | Surrounding Future Land Use | Surrounding Zoning |
| North: | Lee County | Lee County |
| South: | Mixed Use (MX) and Single-Family Residential (SF) | Agricultural (A) and Single-Family Residential (R1) |
| East: | MF and SF | RML and |
| West: | MX | Agricultural (A) |

Urban Service

Area: Transition

City Water/Sewer: There are no connections to the site currently, however, the Sandoval residential subdivision – which is adjacent to the east – has utilities available.

Access Road: The site has frontage on Veterans Memorial Parkway which is a principal arterial. Two driveway stub-outs are on the site. The applicant has indicated they will seek a third access from Veterans Parkway¹.

PROJECT REQUESTS

The Cape 84 Acres PDP includes the five following requests for approval:

- 1.Deviation from LUDR, Section 3.1.2.A.3.b
- 2.Deviation from LUDR, Section 3.16.4,
- 3.Deviation from LUDR, Section 5.2.13.A,
- 4.Deviation from LUDR, Section 5.2.13.C.1,
- 5.Deviation from LUDR, Section 5.2.13.C.5,
- 6.Deviation from EDS, G-5 Cross,
- 7.Deviation from EDS, Dead End Streets, and
- 8.Development Plan Approval.

¹ Veterans is maintained by Lee County Department of Transportation.

FINDINGS OF FACT

The 84.47 site is in the southwestern quadrant of the City and was formerly a borrow pit that has ceased operations for several years. The site has frontage along Veterans Parkway West and is surrounded by two residential subdivisions² to the north and east, an undeveloped site to the west³, and single-family homes to the south. The site has an irregular shape due to the frontage along Veterans Parkway. The site topography is similar to many former borrow pits with the majority of the site consisting of two large lakes where soil was dredged out. The site also has two driveway stubs from Veterans Parkway that will allow access at the time of development.

The site's original future land designation from the adoption of the 1989 Comprehensive Plan was Single-Family/Multi-Family (SM)⁴. In 2007, the future land use designation was amended to Mixed Use Preserve (MUP) Type III, Class D. In 2018, the future land use designation was amended to Multi-Family Residential (MF). The site has retained Agricultural (A) zoning since 1989, however the site was rezoned to Multi-Family Residential Low (RML) in 2019.

PROJECT DESCRIPTION

The applicant is seeking PDP approval for a multi-family development on 84 acres. The applicant has submitted a "PDP Master Plan" that includes 336 units to be developed in three phases. The PDP originally requested a rezone to the Multi-Family Residential (R-3) zoning district to allow for the multi-family units, however, the Land Development Code was adopted on August 5, 2019 that also included a rezone of the site to Multi-Family Residential Low (RML)⁵. The "PDP Master Plan" shows three access points along Veterans Parkway – a Lee County roadway. There are two existing road stub-outs at the north and south ends of the property, while the third proposed access is between the two existing access points. The multi-family units will be primarily be constructed around two large water bodies with some units being built into and over the water. Additionally, the PDP Master Plan shows an amenity site near the center of the development as well as floating gazebos that are built in the water.

The multi-family units will either be one-story four or six-unit buildings. The applicant proposed to install sidewalks along the internal roads in front of the multi-family units. The development will also include landscaping on the interior of the development and perimeter landscape buffering, however, the applicant has applied for deviations to eliminate or minimize some of the required landscaping. The applicant has applied for other deviations regarding the seawall construction, and roadway design.

The "PDP Master Plan" shows the development being constructed in three phases. Phase one will be near the southernmost entrance, near the Sandoval residential subdivision. The first phase will include 186 units and 432 parking spaces. Phase two will be at the northernmost entrance, near the Cape Royal residential subdivision. The second phase will include 82 units and 275 parking spaces. The third phase will be in between the phase one and two entrances and will include 68 units and 157 parking spaces.

ANALYSIS

Deviation from LUDR, Section 3.16.4

The applicant seeks a deviation from LUDR, Section 3.16.4 which states:

² The subdivision to the north is within unincorporated Lee County.

³ The site is also owned by the applicant.

⁴ From the 1989 adoption of the Comprehensive Plan.

“All real property having frontage or direct and immediate access to frontage on any canal or other body of water located within or bordering the boundaries of the city, wherein the water is in any proportion saline or brackish, or the levels of which fluctuate by reason of tidal influences, shall be required to have constructed on it, at the owner’s expense, seawalls bulkheading the entire frontage exposed to contact with the water. Seawalls shall be structurally maintained at owner’s expense so as not to cause a nuisance or hazard to safety”.

The applicant is requesting the deviation in order to not construct seawalls along the existing lakes. The applicant states they will slope the lake edges according to requirements set by the South Florida Water Management District (SFWMD).

Analysis and Recommendation

Deviations requested within a PDP are reviewed according to the standards set forth in LUDR, Section 4.2.4.K., which state the following:

“To provide design flexibility in developing land through the PDP process, deviations from the City of Cape Coral Land Use and Development Regulations which relate to standards of the zoning district of the site in question, including, but not limited to, area, dimensional, and other standards, may be approved in a PDP development order by the City Council provided that the PDP demonstrates unique and innovative design which would be enhanced by the approval of such deviation(s) and that the intent of such regulations to protect the health, safety, and welfare of the public would be served by the approval of the deviation.”

As discussed previously, the applicant states in their letter of intent that the site is utilizing creative building techniques which include multi-family buildings extending over and into the lakes using a system of cantilevers and pilings. The applicant states that some buildings will only be connected to the land through boardwalks. The applicant states that a combination of lake slopes, bulkheads, and seawalls will be used where appropriate and necessary.

Unique and Innovative Design

LUDR, Section 4.2.4.K provides examples of what may constitute a unique and innovative design. Such examples include dedication of open space for recreational use, the setting aside of land for conservation purposes or providing areas for public assembly. Planning staff finds that the applicant has demonstrated adequate justification for the deviation request as the applicant intends to utilize an innovative design that has not been used previously in Cape Coral. The large lakes on the site present a significant challenge for development unless the lakes are filled in, however, the applicant intends to use the lakes as a feature in the multi-family development. Staff acknowledges that seawalls around the entire perimeter of the lake could make the proposed design difficult if not impossible due to some of the multi-family units extending over the water.

Health, Safety and Welfare of Public

Planning staff finds that the applicant’s requested deviation does not have a specific negative impact on the health, safety or welfare of the public. Seawalls are important for waters that experience tidal influences in order to stabilize the shoreline and protect residences from experiencing foundational issues. The on-site lakes are considered brackish due to their proximity to Charlotte Harbor, but they are not free-flowing canal systems that experience many of the

tidal influences typically found in brackish canals. The Land Use and Development Regulations, as well as the newly adopted Land Development Code, allow for sloped seawalls on freshwater canals that do not experience tidal flow. Staff finds that the sloped shorelines built under the provisions of the South Florida Water Management District should ensure that the multi-family residences are stabilized adequately.

Planning staff finds that the applicant's request for a deviation from LUDR, Section 3.16.4 meets both criteria found in LUDR, Section 4.2.4.K and staff recommends approval.

Deviation from LUDR, Section 5.2.13.A

The applicant seeks a deviation from LUDR, Section 5.2.13.A which states:

"Except in the South Cape Downtown District, all sites shall have at least one canopy tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below".

The applicant states that according this section, the proposed development would be required to provide 3,690 trees throughout the project. The applicant also states that this requirement is difficult to meet because of the large lakes on the site which restrict the amount of developable land. The applicant's landscape plan provides a total of 1,362 canopy. The landscape plan states that the number of trees provided is based upon the site having 1,361,677 sq. ft. of developable land.

Analysis and Recommendation

Deviations requested within a PDP are reviewed according to the standards set forth in LUDR, Section 4.2.4.K., which state the following:

"To provide design flexibility in developing land through the PDP process, deviations from the City of Cape Coral Land Use and Development Regulations which relate to standards of the zoning district of the site in question, including, but not limited to, area, dimensional, and other standards, may be approved in a PDP development order by the City Council provided that the PDP demonstrates unique and innovative design which would be enhanced by the approval of such deviation(s) and that the intent of such regulations to protect the health, safety, and welfare of the public would be served by the approval of the deviation."

As discussed previously, the applicant states in their letter of intent that the development will provide 1,362 canopy trees instead of 3,690 canopy trees.

Unique and Innovative Design

LUDR, Section 4.2.4.K provides examples of what may constitute a unique and innovative design. Such examples include dedication of open space for recreational use, the setting aside of land for conservation purposes or providing areas for public assembly. Planning staff finds that the size of the lakes makes a large portion of the site undevelopable. Staff finds that providing one canopy tree per 1,000 sq. ft. of developable land is a unique design that provides landscaping in appropriate locations on the site. Most developments do not have canopy trees along or near the waterbodies due to several factors such as soil conditions and soil stabilization. The provision of 1,362 canopy trees should provide adequate buffering and visual interest throughout the site.

Health, Safety and Welfare of Public

Planning staff finds that the applicant's requested deviation does not have a specific negative impact on the health, safety or welfare of the public. The requested will allow for a reduction of canopy trees but should provide enough canopy trees throughout the site's developable area to allow for appropriate buffering and shading. The reduction of canopy trees should not have any negative affects on safety.

Planning staff finds that the applicant's request for a deviation from LUDR, Section 5.2.13.A meets both criteria found in LUDR, Section 4.2.4.K and staff recommends approval.

Deviation from LUDR, Section 5.2.13.C.1

The applicant seeks a deviation from LUDR, Section 5.2.13.C.1 which states:

"To provide aesthetic relief between a building and off-street parking or vehicular use areas, all new development, except in the Industrial District and South Cape Downtown District, must provide foundation landscaped areas equal to 10% of the proposed building gross level floor area. These foundation landscaped areas must be located between the off-street parking area and the building, between public streets and the building, or between vehicular access ways and the building, or any combination thereof, with emphasis on the side(s) most visible to the public."

The applicant states multi-family buildings which are built over the water have no area for foundational plantings. The applicant states that foundational landscaping will be installed along the boardwalks and sidewalks that provide access to the multi-family units.

Analysis and Recommendation

Deviations requested within a PDP are reviewed according to the standards set forth in LUDR, Section 4.2.4.K., which state the following:

"To provide design flexibility in developing land through the PDP process, deviations from the City of Cape Coral Land Use and Development Regulations which relate to standards of the zoning district of the site in question, including, but not limited to, area, dimensional, and other standards, may be approved in a PDP development order by the City Council provided that the PDP demonstrates unique and innovative design which would be enhanced by the approval of such deviation(s) and that the intent of such regulations to protect the health, safety, and welfare of the public would be served by the approval of the deviation."

As discussed previously, the applicant states in their letter of intent that the foundational landscaping will be installed along boardwalks and sidewalks where room is available. The applicant's landscape plan shows the same square footage of plantings as required by code but placed further from the multi-family units than the LUDR allows. Multi-family buildings that are not built over the water will still meet the LUDR requirement regarding the location of foundational plantings.

Unique and Innovative Design

LUDR, Section 4.2.4.K provides examples of what may constitute a unique and innovative design. Such examples include dedication of open space for recreational use, the setting aside of land for conservation purposes or providing areas for public assembly. Planning staff finds that the applicant has demonstrated unique and innovative design through both the construction of the multi-family units over water and by proposing to install landscaping along the boardwalk area that provides access to the over water units. The landscaping along the boardwalk will achieve nearly the same affect as landscaping along the front of the building by providing visual interest and making the entry area more aesthetically pleasing. Furthermore, based upon the design of the over water units, there is no logical place for the foundational landscaping to be placed.

Health, Safety and Welfare of Public

Planning staff finds that the applicant's requested deviation does not have a specific negative impact on the health, safety or welfare of the public. The requested will allow for a relocation of the foundational landscaping that is normally required along the front or sides of a building. Foundational landscaping is required to provide screening of buildings and to provide a more pleasing visual aesthetic. The relocation of the plantings should provide the same benefits and will not take away from health, safety or welfare.

Planning staff finds that the applicant's request for a deviation from LUDR, Section 5.2.13.C.1 meets both criteria found in LUDR, Section 4.2.4.K and staff recommends approval.

Deviation from LUDR, Section 5.2.13.C.5

The applicant seeks a deviation from LUDR, Section 5.2.13.C.5 which states that properties with a zoning of Multi-Family Residential (R-3) that are developing adjacent to properties with Single-Family Residential (R-1B) zoning shall provide a Type "A" landscape buffer.

The applicant is seeking to not install a Type "A" buffer along a portion of the eastern property line that is adjacent to the Sandoval and has a zoning of R-1B. There is approximately 1,311 feet of linear frontage along the eastern property that is adjacent to R-1B zoning. The applicant states that Type "A" buffer is not able to be installed along this property line because the lake system makes up the majority of the eastern property line frontage. The applicant proposes to plant 427 linear feet of a Type "A" buffer where there is land available to install the buffer.

Analysis and Recommendation

Deviations requested within a PDP are reviewed according to the standards set forth in LUDR, Section 4.2.4.K., which state the following:

"To provide design flexibility in developing land through the PDP process, deviations from the City of Cape Coral Land Use and Development Regulations which relate to standards of the zoning district of the site in question, including, but not limited to, area, dimensional, and other standards, may be approved in a PDP development order by the City Council provided that the PDP demonstrates unique and innovative design which would be enhanced by the approval of such deviation(s) and that the intent of such regulations to protect the health, safety, and welfare of the public would be served by the approval of the deviation."

As discussed previously, the applicant states in their letter of intent that a large portion of the eastern property line – where the Type "A" buffer is required – is comprised of lakes and there is no land available to plant the buffer. The

applicant's landscape plan shows a Type "A" buffer for 427 feet along the eastern property line. The Type "A" buffer will be five feet wide and will include 17 canopy trees and 138 shrubs.

Unique and Innovative Design

LUDR, Section 4.2.4.K provides examples of what may constitute a unique and innovative design. Such examples include dedication of open space for recreational use, the setting aside of land for conservation purposes or providing areas for public assembly. Planning staff finds that the applicant has demonstrated unique and innovative design through both the construction of the multi-family units over water and by proposing to install a Type "A" buffer where there is available land. The portion of the eastern property line that will not have the Type "A" buffer will consist of the on-site lakes which are adjacent to the Sandoval community.

Health, Safety and Welfare of Public

Planning staff finds that the applicant's requested deviation does not have a specific negative impact on the health, safety or welfare of the public. The requested deviation will allow the applicant to place the Type "A" in an appropriate location where uplands are available on the eastern property line. The Type "A" buffer where installed should provide some moderate screening of the multi-family units from the nearby single-family homes. Staff also finds that most of the homes in the nearby Sandoval development will be adjacent to the large water bodies for several hundred feet. The shortening of the buffer should provide the same benefits and will not take away from health, safety or welfare.

Planning staff finds that the applicant's request for a deviation from LUDR, Section 5.2.13.C.1 meets both criteria found in LUDR, Section 4.2.4.K and staff recommends approval.

Deviation from Engineering and Design Standards, Sheet G-5 (Cross Section)

The applicant is requesting a deviation from the City Engineering and Design Standards (EDS), Sheet G-5 which is a cross section that determines standards for construction of local roads. The cross section requires local roads to be 60 feet wide along with four-foot shoulders and an eight-foot grass strip on the edge of the right of way. The applicant is requesting to install the following on the roads within the development:

1. A 50-foot wide private access way,
2. 11-foot lane widths abutting a 2' Valley Curb,
3. A 3-foot wide grass strip, and
4. An eight-foot wide multi-use path on one side of the drive.

The proposed roadway design is requested due to some of the narrow strips of land that are within the development. The applicant is adding the eight-foot wide to allow pedestrian and bicycle paths. The requested EDS Deviation has been reviewed by the City Site Development Division and the City Public Works Department. Both the Site Development Division and the Public Works Department have approved the EDS Deviation request.

Deviation from Engineering and Design Standards, Sheet G-4 (Dead End Streets)

The applicant is requesting a deviation from the City Engineering and Design Standards (EDS), Sheet G-4 which states that dead end cul-de-sac streets shall not exceed 400 feet in length. The applicant is requesting the deviation to allow for dead end cul-de-sac streets that are approximately 500 feet in length. The proposed roadway design is requested due to some of the narrow strips of land that are within the development.

The applicant states that multiple driveway connections that allow continuous vehicular connections are not possible. The applicant is providing two access points from Veterans Parkway and potentially a third access point that would allow for emergency vehicles to have 2-3 options for entrance into the development.

The requested EDS Deviation has been reviewed by the City Site Development Division and the City Public Works Department. Both the Site Development Division and the Public Works Department have approved the EDS Deviation request.

Comprehensive Plan

Policy 1.15 – Multi-Family Residential (MF)

Densities up to 25 units per acre are permitted in this future land use classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. The development of multi-family projects in the Urban Services Reserve Area is also subject to the terms of Policies of 7.7 and 7.8, below

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higher-density multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residences are not permitted in this zoning district.

Staff Response: The development has a zoning of RML, which as stated, is compatible with the MF future land use designation. The development's proposed density is approximately four dwelling units per acre, which is well under, the maximum density of 16 units per acre.

Policy 1.7

The City has identified a shortfall of multi-family residential housing stock in the community. To provide better guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational guidelines have been developed. The following locational guidelines are as follows:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within $\frac{1}{4}$ mile of major roadways such as arterial and collector roadways, as identified by *Figure 7 City Roadway Classifications*.

2.) Proximity to non-residential land uses.

An important consideration for siting multi-family residential development is the need for multi-family residential uses to be in proximity to major employment centers. Providing housing near commercial uses can result in shorter trips, lessened traffic generation by workers, and providing multiple transportation mode options (walking, bicycling, automobile, bus) for employees.

An appropriate location for multi-family residential development is adjacent to or within ¼ mile of non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development. Multi-family residential development is often self-contained with parking lots which provide a physical barrier visually separating commercial uses, particularly the lighting and loading areas, from single-family residential uses, which is a benefit to the community.

Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Single, isolated pre-platted parcels provide little opportunity for larger-scale multi-family residential development and contribute to the same ills that strip center commercial developments offer; a proliferation of driveways onto major roadways.

Therefore, an appropriate location for multi-family residential development is a collection of properties of 3-acres or greater which provide multi-family assemblage opportunities, or for properties which alone are 3-acres or greater in size. Furthermore, consideration will be given to logical extensions from existing multi-family residential designated properties.

Staff Response: The development meets two of the four multi-family siting criteria. The development has frontage on Veterans Parkway, which is classified, as a principal arterial. The site is also adjacent to existing multi-family development to the east and represents a large site that exceeds the required size of three acres.

General Standards and Requirements for PDPs

This project was also evaluated for compliance with general standards and requirements found in LUDR, Section 4.2 that is provided below.

- A. *Environmental control standards:* The authorized representative reported the results of an environmental survey that was conducted May 25, 2018. No state or federally protected species were reported nor sensitive lands were found. The project complies with the four standards in LUDR, Section 5.4.
- B. *Maintenance of improvements:* A landscape plan was submitted as part of the PDP application. Full compliance with the City landscaping regulations will be verified when a site plan for the project is submitted.
- C. *Consistency with Comprehensive Plan:* This project is consistent with several policies and goals in the Comprehensive Plan that are discussed in greater detail elsewhere in this report.
- D. *Financial Responsibility:* This standard is not applicable as the owner will not be required to provide a statement of financial responsibility for this project.
- E. *Dimensional requirements:* The project is compliant with dimensional requirements for the R-3 District.
- F. *Maximum density:* This project does not exceed the maximum density of 16 units per acre. This standard is met.
- G. *Minimum parcel size:* The R-3 district does not have a minimum size requirement, therefore, this standard is not applicable.
- H. *Time limitation:* Substantial construction is required to commence within two years from the date of project approval or within one year fo the last permit approval for all appropriate regulatory bodies, whichever is less.
- I. *Ownership requirements:* The property owners have signed the PDP application as required by the City.
- J. *Special exceptions:* No special exception has been requested, therefore, this standard is not applicable.
- K. *Deviations:* Seven deviations are requested. The deviations have been justified adequately by the applicant, meet the deviation standards in the LUDR, and staff recommends approval.
- L. *Underground Utilities:* This project will involve new construction and utilities will be placed underground.

Economic Development Master Plan Analysis

The amendment is directly supported by the City Economic Development Master Plan. The site proposes to develop new multi-family residential units at an appropriate location.

Concurrency Review

The project will meet concurrency requirements for solid waste, drainage, potable water, sewer, and transportation. Details are provided in Table 4.

Table 2. Information on Design Capacity, Usage, and Concurrency Status for Various Services.

| SERVICE | FACILITY DESIGN CAPACITY | USAGE | STATUS |
|-------------|--------------------------|------------|-----------------|
| Solid Waste | 1,836 Tons | 1,384 Tons | Capacity exists |

| | | | |
|---------------------------|--|------------------------|------------------------------------|
| Drainage | NA | NA | NA |
| Potable Water | 30.1 MGD ⁶ | 9.4 MGD | Capacity exists |
| Sewer | 28.4 MGD | 12.8 MGD | Capacity exists |
| Roads Veterans Parkway | Level of Service D Level of Service D | 14,500 AADT No data | Capacity exists Capacity exists |

Public Notification

This case will be publicly noticed as required by LUDR, Section 8.3.2.A and 8.3.4 as further described below.

Publication: A display ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners as described within this report. The ad will appear in the *News-Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Written notice: Property owners located within 500 feet from the property lines of the PDP will receive written notification of the scheduled public hearing. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Posting of a Sign: A large sign identifying the case and providing salient information will be posted on the property, as another means of providing notice of the request.

RECOMMENDATION

Staff finds that this PDP is consistent with the City LUDRs and Comprehensive Plan. Staff supports all requests and recommends approval of the PDP. Further conditions or requirements may be in the Resolution that approves the PDP request.

Staff Contact Information

Chad Boyko, AICP, Principal Planner

PH: 239-573-3162

Email: cboyko@capecoral.net











CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP
500 Proximity Boundary

Case No. PDP18-0008

LEGEND

-  Subject Parcel
-  500' Boundary
-  A
-  C-1
-  MR
-  P-1
-  PRES- Regulated by FLU
-  R-1B
-  R-3
-  RD



APRIL 4, 2019

0 310 620 930 1,240 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA

SUBJECT PARCELS

500' PROXIMITY BOUNDARY

GELCYS CANAL

MCDONOUGH CANAL

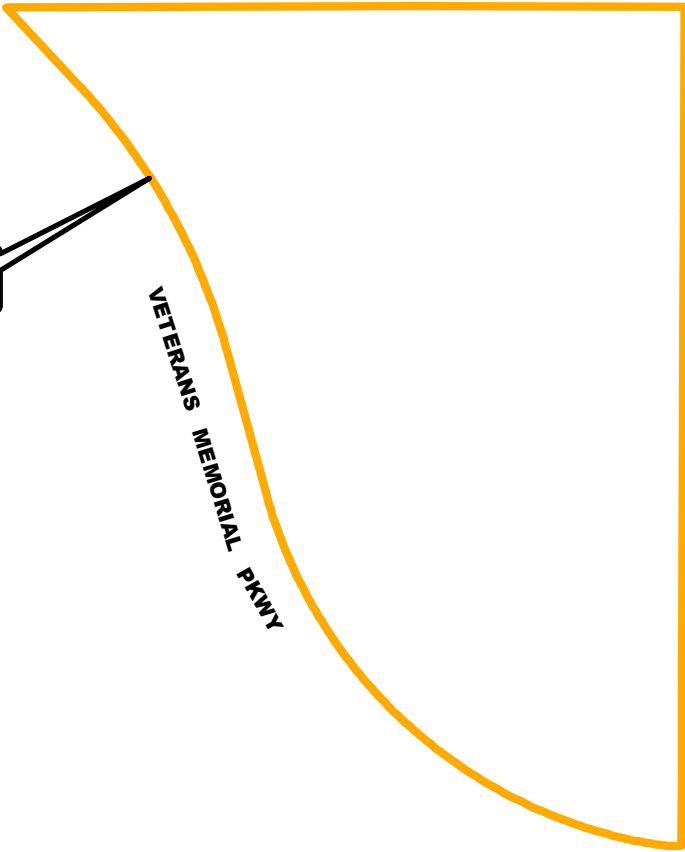
SOUTH SPREADER
WATERWAY

ALECIA CANAL

MAXINE CANAL

DANNY CANAL

Subject Parcels



LADY ANNE CIR
ROYAL TEE CIR

SUTHERLAND CT
WINDWOOD PL
BELLINGHAM CT
SUNVALE CT
FAIRMONT COVE CT
GREENDALE PL
BLACKBURN CIR

SURFSIDE BLVD


SANDOVAL BLVD

SOMERVILLE LOOP
MIRACLE PKWY

SW 25TH ST

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. PDP18-0008

 Subject Parcel



0 380 760 Feet

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500' NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: PDP18-0008

REQUEST: The applicant requests approval of a Planned Development Project (PDP) entitled "Cape 84 Acres" to develop a maximum of 336 units within three phases. The PDP requests Development Plan approval along with the approval of several deviations.

CAPE CORAL STAFF CONTACT: Chad Boyko, Principal Planner, 239-573-3162, cboyko@capecoral.net

PROPERTY OWNER(S): MSI Holdings, LLC

AUTHORIZED REPRESENTATIVE: EnSite, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on November 5, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

APPEALS: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Department of Community Development
Post Office Box 150027 • Cape Coral, Florida 33915-0027
1015 Cultural Park Blvd. • Cape Coral, Florida 33990
Email: planningquestions@capecoral.net

NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: PDP18-0008

REQUEST: The applicant requests approval of a Planned Development Project (PDP) entitled "Cape 84 Acres" to develop a maximum of 336 units within three phases. The PDP requests Development Plan approval along with the approval of several deviations.

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by order of
Kimberly Bruns, CMC
City Clerk
REF # PDP18-0008

LEGAL AD - DCD

PUBLISH AD: Saturday October 26, 2019

Department of Community Development
Post Office Box 150027 • Cape Coral, Florida 33915-0027
1015 Cultural Park Blvd. • Cape Coral, Florida 33990
Email: planningquestions@capecoral.net

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0003852356

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$330.41

Run Times: 1

No. of Affidavits: 1

Run Dates: 10/26/19

Text of Ad:

NOTICE OF PUBLIC HEARING
CASE NUMBER: PDP18-0008

REQUEST: The applicant requests approval of a Planned Development Project (PDP) entitled "Cape 84 Acres" to develop a maximum of 336 units within three phases. The PDP requests Development Plan approval along with the approval of several deviations.
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by order of
Kimberly Bruns, CMC

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Cape 84 Acres

APPLICATION NO: PDP18-0008

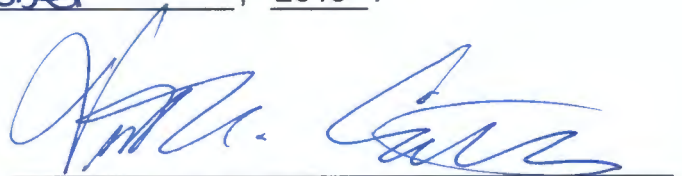
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 28th day of October, 2019.

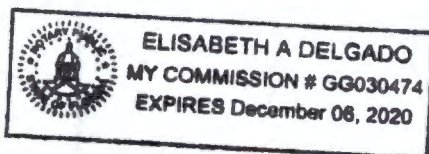


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of October, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/20 Commission # GG030474



Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

Item Number: 2.B.
Meeting Date: 11/5/2019
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

CASE#VP19-0011*; Address: 4980 Seville Court; Applicant: Cape Seville LLC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests to vacate 693.63 sq. ft. of right-of-way and all underlying easements involving a portion of the San Carlos Canal between the west property line and the seawall, and a 589.88 sq. ft. portion of platted easements along the west property line of Lots 38 and 39 in Block 98.

LEGAL REVIEW:

EXHIBITS:

See Attached Backup Materials.

PREPARED BY:

Jessica M. Cruz Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Katherine Woellner, Planner, 239-574-0605, kwoellner@capecoral.net

ATTACHMENTS:

| Description | Type |
|------------------|-----------------|
| Backup Materials | Backup Material |



September 27, 2019

Katherine Woellner
Planner
City of Cape Coral
Department of Community Development
Planning and Zoning Division
kwoellner@capecoral.net

Re: VP19-0011 Letter of Intent – 4980 Seville Court

Dear Katherine;

We are vacating the platted easement at the rear of the property and a portion of the canal in order to line up the seawall.

The area proposed for the canal vacation will be deeded back as an easement.

Please feel free to contact me with any questions you may have.

Sincerely,

Kellie Michaels
Project Coordinator
Windward Construction
Tel: 239-318-0384
Kmichaels.windward@gmail.com
Tel: 239-318-0384



**12600 Westlinks Drive
Fort Myers, Fl. 33913
Phone: 239-432-1805**

March 13, 2019

Windward Construction Inc.

Re: 4980 Seville Ct. Cape Coral

Dear Joanne Stevens,

This letter will serve to inform you that Comcast has no objection to your proposed work of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 239-432-1805.

Cordially,

A handwritten signature in blue ink, appearing to read 'Mark Cook'.

Mark Cook
Project Coordinator



Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 • Fax (239) 995-7904
www.lcec.net

April 9, 2019

Ms. Kellie Michaels
Windward Construction
4818 Coronado Parkway
Cape Coral, FL 33904

Re: Letter of No Objection to Vacation of Canal Interest; 4980 Seville Court, Cape Coral, FL;
Owners: Michael Mitch and Carolyn Mitch, husband and wife; Strap: 13-45-23-C1-00098.0380.

Dear Ms. Michaels:

You have opened up negotiations on behalf of your customer, Cape Seville, LLC.

We have reviewed the sketch, the request submitted, and our internal records. LCEC has **no objection** to the request. The sketch was most helpful. It produced by Eric Davis, PSM, of Davis Land Surveying, Inc.; having a job number of 19-0122.

However, LCEC requires a continuous perimeter easement surrounding your property in order to serve you. Therefore, in the after situation to the vacation, the petitioner will have provided to the appropriate local jurisdiction, and imposed six-foot wide easements along the seawall and the side easements so that there is a continuous perimeter easement located upon the parcel.

Should no definitive action, or no approval by local jurisdiction be received by the petitioner, this letter will terminate upon six months from the date listed above.

Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russ Goodman, Digitally signed by Russ
SR/WA Goodman, SR/WA
Date: 2019.04.09
15:34:28 -04'00'

Russel Goodman, SR/WA
Senior Right of Way Agent – Land Rights



Joanne Stevens <joannewindward@gmail.com>

4980 Seville Ct

1 message

Schroeder, John C <John.Schroeder@centurylink.com>
To: Joanne Stevens <joannewindward@gmail.com>
Cc: Brian Haag <bh4610@gmail.com>

Thu, Mar 28, 2019 at 9:22 AM

Dear Joanne Stevens,

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the document for the above referenced information. Based on our review of the attached survey, we have no objections to the vacation of plat for 4980 Seville Ct.

If you should require additional information, please contact me at 239 336-2012.

Sincerely,

John C. Schroeder

John C. Schroeder
Engineer II FTTT/ISP
CenturyLink
Fort Myers District
239-336-2012
john.schroeder@centurylink.com

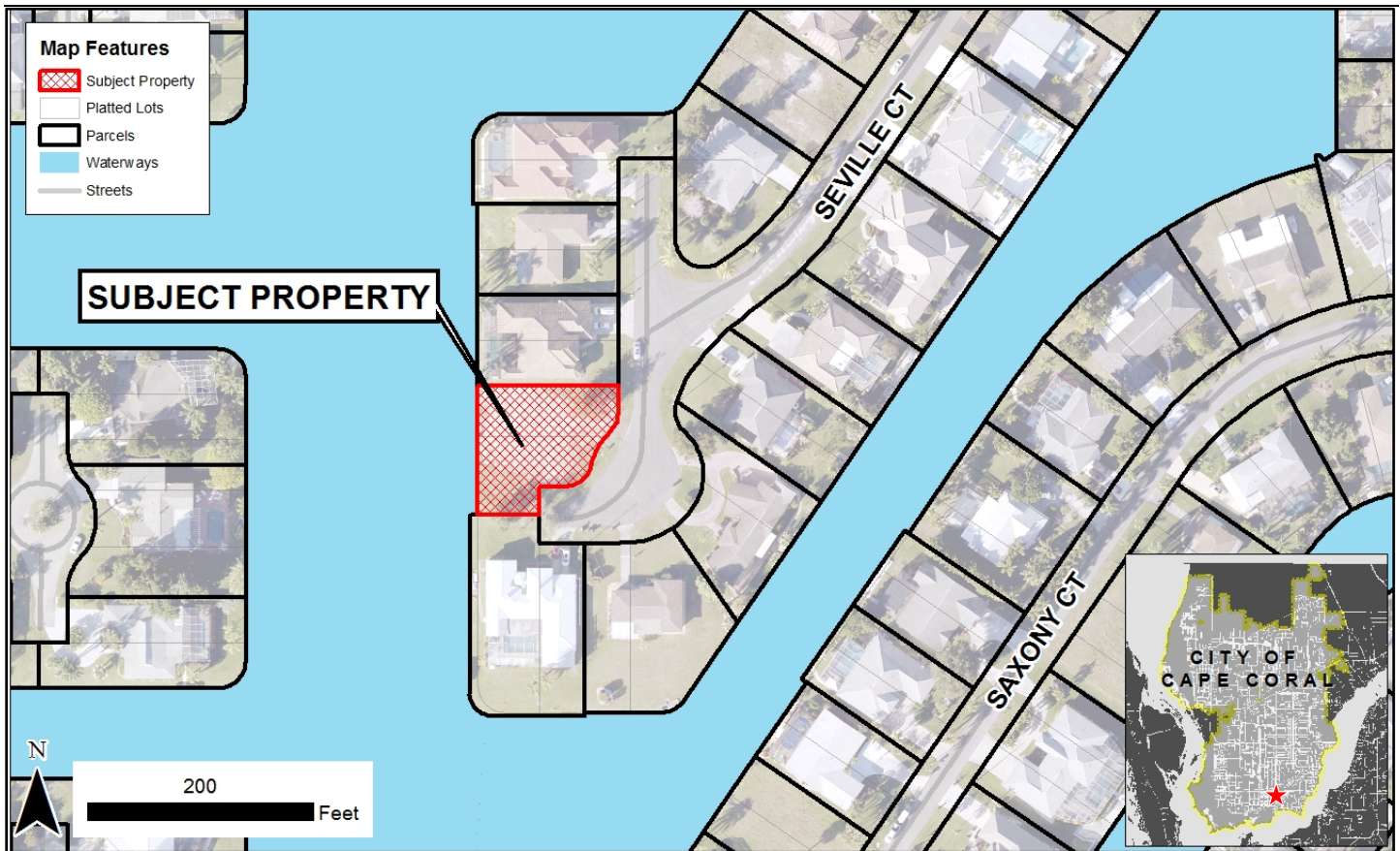
From: Lane, Justin
Sent: Wednesday, March 13, 2019 8:43 AM
To: Schroeder, John C <John.Schroeder@centurylink.com>
Subject: FW: 4980 Seville Ct

From: Joanne Stevens <joannewindward@gmail.com>
Sent: Wednesday, March 13, 2019 8:14 AM
To: Lane, Justin <Justin.Lane@centurylink.com>; Goodman, Russel <russel.goodman@lcec.net>; Cook, Mark <mark_cook@comcast.com>
Cc: Brian Haag <bh4610@gmail.com>
Subject: 4980 Seville Ct



VACATION OF PLAT
PLANNING DIVISION CASE REPORT

VP19-0011



HEARING DATE: 11/5/2019

REQUESTS: The applicant requests to vacate 693.63 sq. ft. of right-of-way and all underlying easements involving a portion of the San Carlos Canal between the west property line and the seawall, and a 589.88 sq. ft. portion of platted easements along the west property line of Lots 38 and 39 in Block 98.

SITE ADDRESS: 4980 Seville Ct.

STRAP NUMBER: 13-45-23-C1-00098.0380

LEGAL DESCRIPTION: Lots 38 and 39, Block 98, Unit 2, Part 2, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 11, pages 96 through 98

APPLICANT(S): Mira E. Srdanov, Manager

PROPERTY OWNER(S): Cape Seville, LLC

AUTHORIZED AGENT(S): Brian Haag, Windward Construction, LLC

FUTURE LAND USE: Single-Family (SF)

ZONING DESIGNATION: Single-Family Residential (R-1)

URBAN SERVICE AREA: Infill

PREPARED BY: Katherine Woellner, Planner

APPROVED BY: Mike Struve, Planning Coordinator, AICP

RECOMMENDATION: Approval

BACKGROUND

The 11,411 square-foot site contained a single-family residence that was demolished in 2018. The applicant is proposing to construct a new single-family residence on the site.

ZONING HISTORY

The site is zoned Single-Family Residential (R-1) with a Future Land Use Classification of Single-Family (SF). No change was made to the zoning or future land use with the adoption of the Land Development Code.

The vacation of plat application was received on July 30, 2019, before the adoption of Land Development Code; therefore, this request was reviewed under the Land Use and Development Regulations that were in existence at the time this application was filed with the City.

REQUEST

The applicant requests to a portion of the San Carlos Canal ROW and all underlying easements between the west property line and the seawall. The applicant also requests to vacate a 589.88 sq. ft. portion of the six-foot wide platted easement along the west property line of Lots 38 and 39 in Block 98. A new easement will be deeded back to the City to create a continuous six-foot public utility and drainage easement around the property. Figure 1 below illustrates the general locations of the proposed vacations.

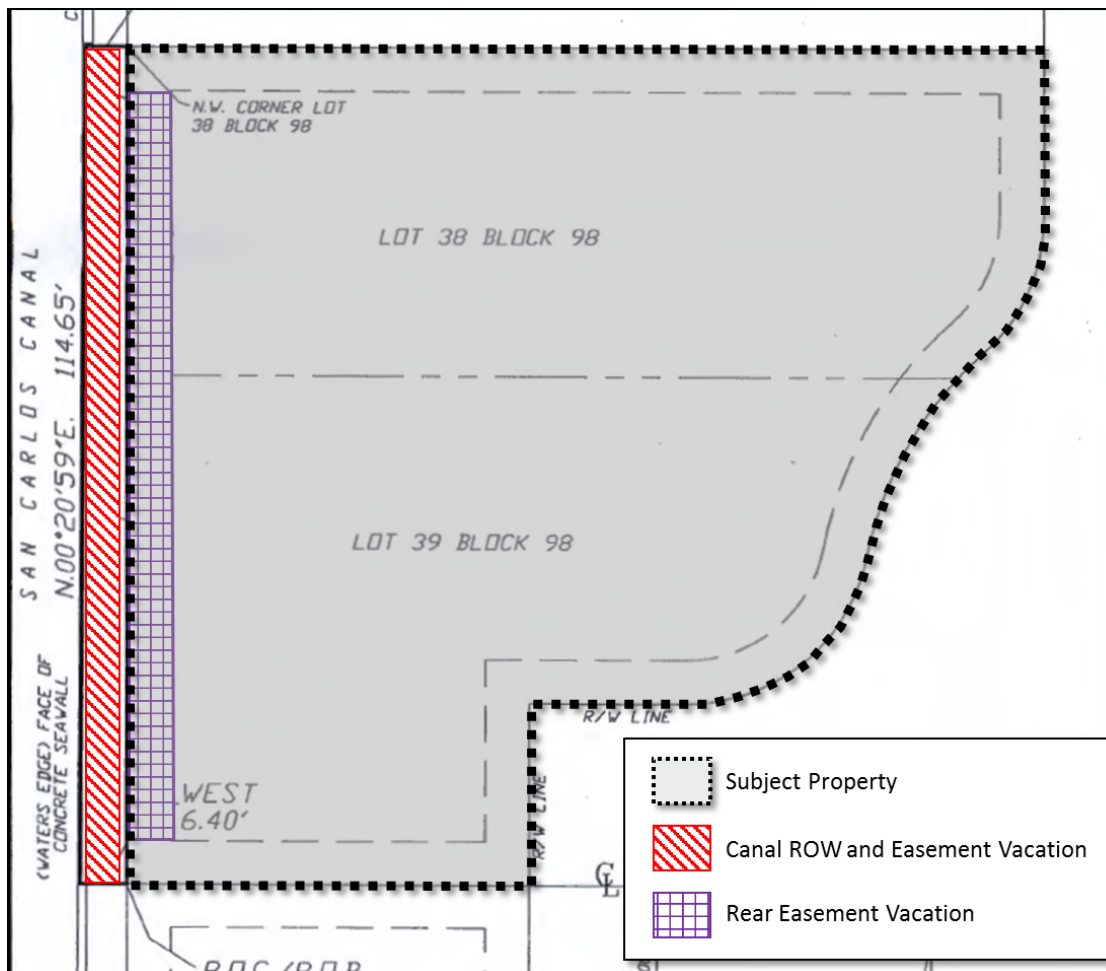


Figure 1: General Locations of Proposed Vacations

ANALYSIS

Staff analyzed this request with the standards found in the Land Use and Development Regulations, Section 8.11, *"Vacation of plats, rights-of-way and other property."*

Land Use and Development Regulations (LUDR)

Per LUDR, Section 8.11.b, the applicant has provided color of title to the tract of land covered by the plat or portion of the plat, a copy of the plat, and appropriate boundary surveys. Additionally, **Lee County Electric Cooperative, Inc.** (LCEC), **Embarq Corporation, Inc.** (Century Link), **Comcast**, and the **City of Cape Coral** have **no utilities in the easement** proposed to be vacated and have **no objection** to the vacation. No changes are proposed to the front and side platted easements.

The site will be enlarged by 693.6 square feet with the proposed canal vacation. This canal ROW area is between the west property line and seawall. The vacation will shift the rear property line to the edge of the seawall and create more buildable area for a new single-family dwelling and thus facilitate redevelopment of the property.

Additionally, 589.88 square feet of the platted, existing, rear public utility and drainage easement is proposed for vacation. Because the seawall is not parallel to the platted lot lines, only a portion of this easement is proposed for vacation. The remainder will be incorporated into the new six-foot public utility and drainage easement that will be deeded back to the city.

Neither the canal ROW nor the easements proposed to be vacated will be needed to meet or fulfill any foreseeable public purpose. Approval of this request will not be harmful to the community. This request is consistent with the public interest in that it will make the property lines more consistent with the location of the canal and adjacent properties.

RECOMMENDATION

Based on the above analysis, staff recommends **APPROVAL** with the following conditions.

Conditions of Approval

1. The vacation of the 693.63 sq. ft. of ROW shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled "San Carlos Canal Right-of-Way, Cape Coral Unit 2 Part 2," dated July 7, 2019.
2. The vacation of the 693.63 sq. ft. of canal easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled "Public Utility and Drainage Easement," dated September 27, 2019.
3. The vacation of 589.88 sq. ft. of the platted, rear public utility and drainage easement shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled "Vacation of a Portion of Public Utility and Drainage Easement" dated September 27, 2019.
4. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for a six-foot wide easement consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled "(Proposed) Public Utility and Drainage Easement", dated October 8, 2019. This deed shall be approved by the City Property Broker prior to execution.

5. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with an easement deed as described in Condition #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution.

Staff Contact Information

Katherine Woellner, Planner

PH: 239-574-0605

Email: kwoellner@capecoral.net

SKETCH TO ACCOMPANY DESCRIPTION:
(PROPOSED) PUBLIC UTILITY AND
DRAINAGE EASEMENT LYING IN A PORTION OF:

*SAN CARLOS CANAL RIGHT-OF-WAY, AND PORTION OF
LOT 38, BLOCK 98,
CAPE CORAL, UNIT TWO, PART TWO,*

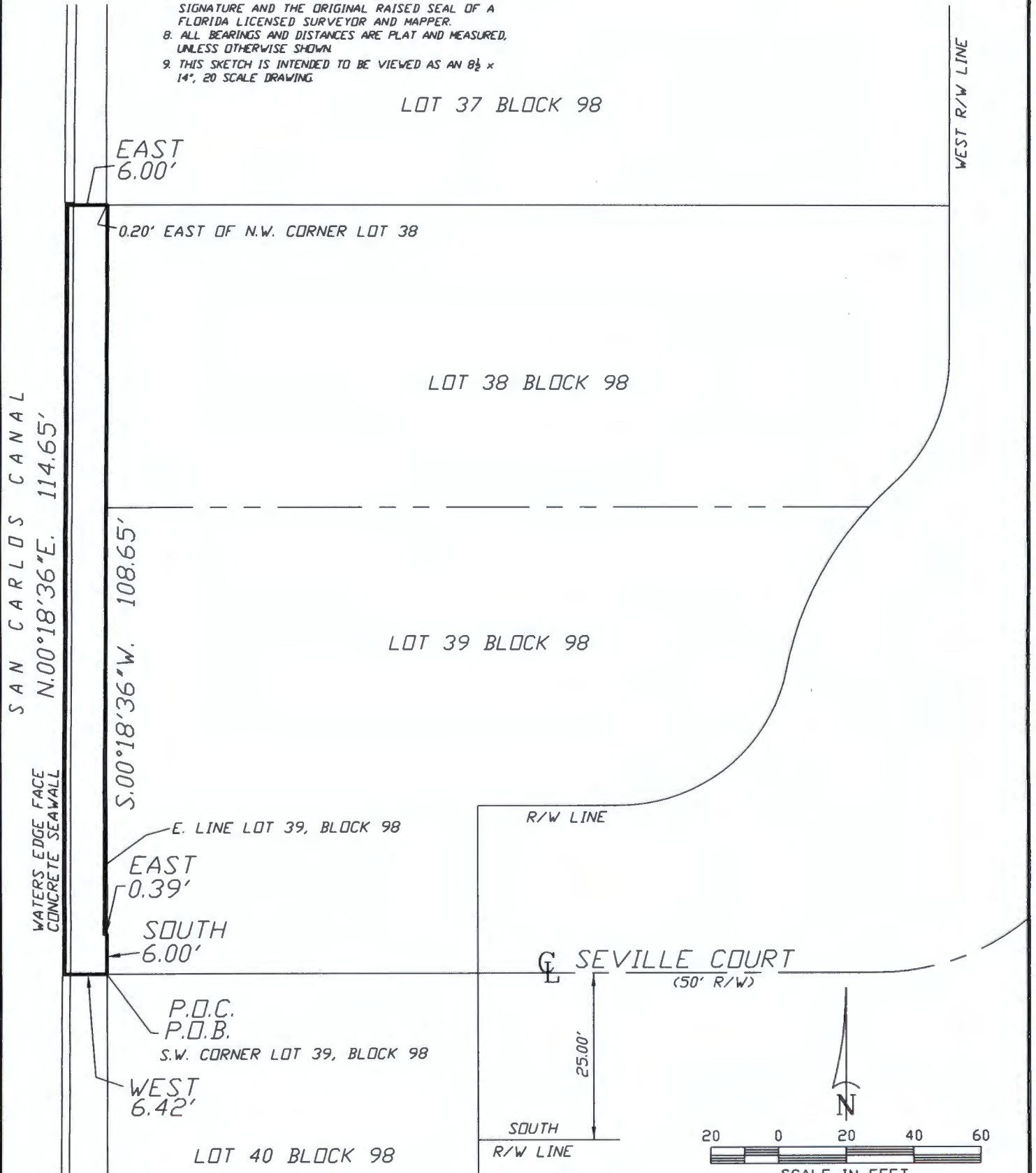
(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF SEVILLE COURT AS BEING "ASSUMED" AS "SOUTH."
2. FIELD NOTES IN CAPE CORAL BLOCK 98.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. THIS SKETCH/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

LEGEND:

O.R. OFFICIAL RECORDS BOOK
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
R/W RIGHT-OF-WAY
CL CENTERLINE
P.U.E. PUBLIC UTILITY EASEMENT
D.E. DRAINAGE EASEMENT



SKETCH TO ACCOMPANY DESCRIPTION
SEE EXHIBIT "A" FOR DESCRIPTION
TO ACCOMPANY THIS SKETCH
"NOT A BOUNDARY SURVEY"

| | | | |
|--------------------------|---------------|----------------------|------------------------|
| DRAWN: PMM | CHECK: FBH | SCALE 1"=20' | PROJ. # CC-U2-98-38 |
| SKETCH DATE 10/8/2019 | | FILE NO. 45-23-13 | SHT.- 1 OF - 2 |

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH :
(PROPOSED) PUBLIC UTILITY AND DRAINAGE EASEMENT
LYING IN A PORTION OF:

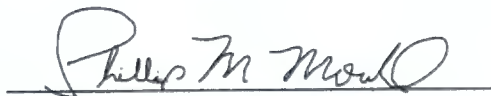
**SAN CARLOS CANAL RIGHT-OF-WAY, AND
PORTION OF LOT 38, BLOCK 98
CAPE CORAL, UNIT TWO, PART TWO,**

(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH,
RANGE 23 EAST, LEE COUNTY, FLORIDA

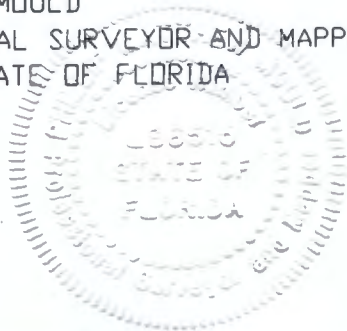
DESCRIPTION:

COMMENCING FROM THE SOUTHWEST CORNER OF LOT 39, BLOCK 98, CAPE CORAL UNIT TWO, AS RECORDED IN PLAT BOOK 11, PAGES 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN WEST TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 6.42 FEET; THENCE RUN N.00°18'36"E. ALONG SAID WATERS EDGE FACE OF CONCRETE SEAWALL FOR 114.65 FEET; THENCE RUN EAST TO A POINT ALONG THE THE NORTH LINE OF SAID LOT 38, BLOCK 98 FOR 6.00 FEET; THENCE RUN S.00°18'36"W. FOR 108.65 FEET; THENCE RUN EAST TO A POINT ALONG THE THE WEST LINE OF LOT 39, SAID BLOCK 98 FOR 0.39 FEET; THENCE RUN SOUTH TO THE AFORESAID SOUTHWEST CORNER LOT 39, BLOCK 98 FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 690.34 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
10/8/2019



CANAL DESCRIPTION

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SKETCH TO ACCOMPANY DESCRIPTION:
(PROPOSED) PUBLIC UTILITY AND
DRAINAGE EASEMENT LYING IN A PORTION OF:

**SAN CARLOS CANAL RIGHT-OF-WAY,
CAPE CORAL, UNIT TWO, PART TWO,**

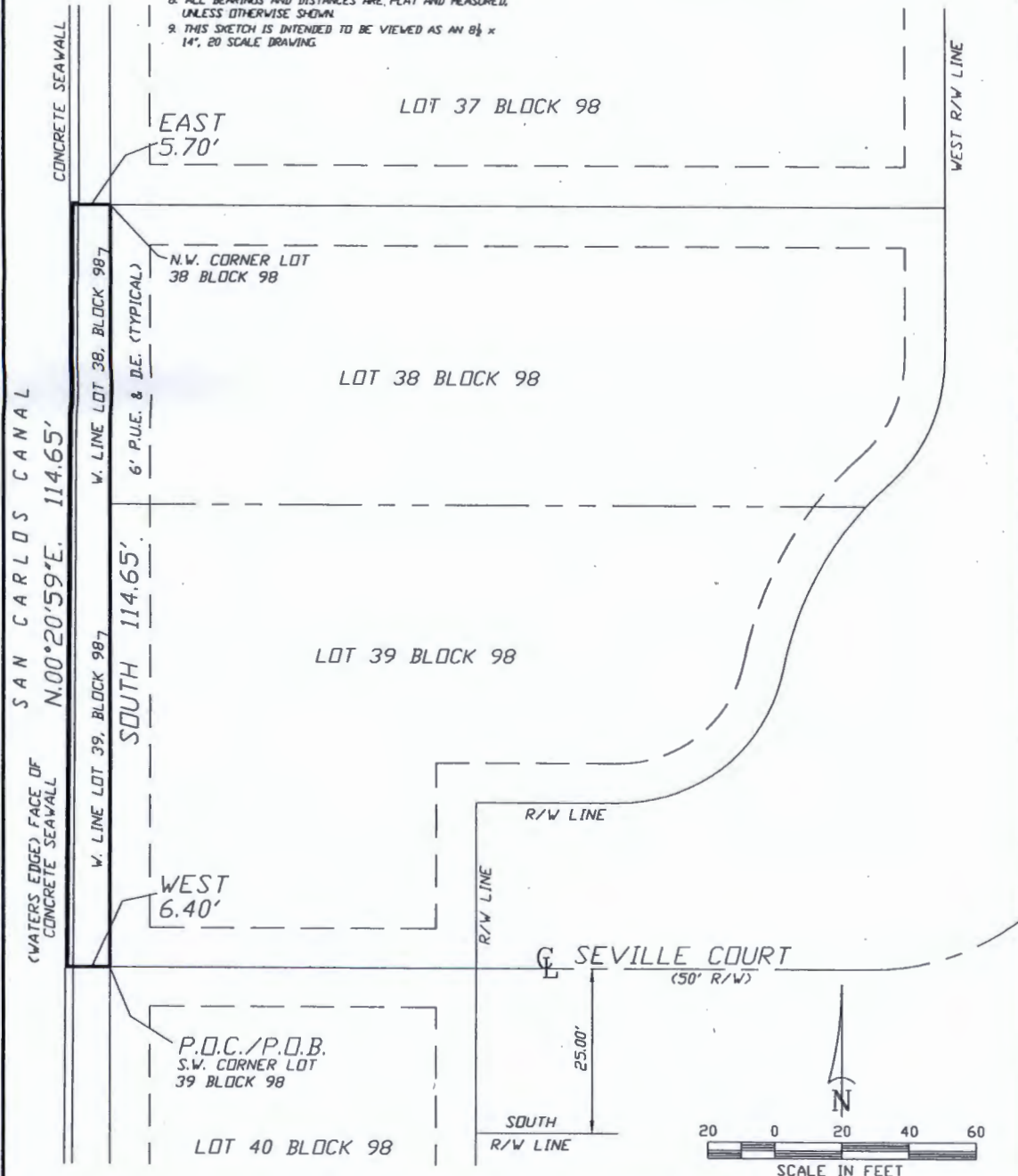
(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF SEVILLE COURT AS BEING "ASSUMED" AS "SOUTH".
2. FIELD NOTES IN CAPE CORAL BLOCK 98.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
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7. ALL BEARINGS AND DISTANCES ARE, PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

LEGEND:

OFFICIAL RECORDS BOOK
POINT OF BEGINNING
POINT OF COMMENCEMENT
RIGHT-OF-WAY
CENTERLINE
PUBLIC UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING



SKETCH TO ACCOMPANY DESCRIPTION
SEE EXHIBIT "A" FOR DESCRIPTION
TO ACCOMPANY THIS SKETCH
"NOT A BOUNDARY SURVEY"

| | | | |
|--------------------------|----------------------|-------------------|------------------------|
| DRAWN: PMM | CHECK: FBH | SCALE 1"=20' | PROJ. # CC-U2-98-38 |
| SKETCH DATE 9/27/2019 | FILE NO. 45-23-13 | SHT.- 1 OF - 2 | |

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

PUE VAC SKETCH

FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH :
(PROPOSED) PUBLIC UTILITY AND DRAINAGE EASEMENT
LYING IN A PORTION OF:

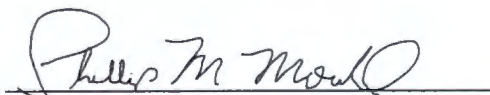
**SAN CARLOS CANAL RIGHT-OF-WAY,
CAPE CORAL, UNIT TWO, PART TWO,**

(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH,
RANGE 23 EAST, LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING FROM THE SOUTHWEST CORNER OF LOT 39, BLOCK 98, CAPE CORAL UNIT TWO, AS RECORDED IN PLAT BOOK 11, PAGES 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN WEST TO A POINT A LONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 6.40 FEET; THENCE RUN N.00°20'59"E. ALONG SAID FACE OF SEAWALL FOR 114.65 FEET; THENCE RUN EAST TO THE NORTHWEST CORNER OF THE AFORESAID LOT 38, BLOCK 98 FOR 5.70 FEET; THENCE RUN SOUTH ALONG THE WEST LINE OF SAID LOTS 38 AND 39, BLOCK 98 FOR 114.65 FEET TO THE POINT OF BEGINNING.

CONTAINING: 693.63 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
9/27/2019

CANAL DESCRIPTION

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

EXHIBIT "A"

DESCRIPTION: TO ACCOMPANY SKETCH:

***SAN CARLOS CANAL RIGHT-OF-WAY,
CAPE CORAL, UNIT TWO, PART TWO,***

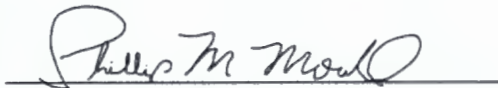
(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH,
RANGE 23 EAST, LEE COUNTY, FLORIDA

DESCRIPTION:

A PORTION OF SAN CARLOS CANAL RIGHT-OF-WAY, AS RECORDED IN
CAPE CORAL UNIT TWO, PART TWO, PLAT BOOK 11, PAGES 96 THROUGH
98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCING FROM THE SOUTHWEST CORNER OF LOT 39, BLOCK 98, SAID
CAPE CORAL UNIT TWO, FOR A POINT OF BEGINNING; THENCE RUN WEST
TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL
FOR 6.40 FEET; THENCE RUN N.00°20'59"E. ALONG SAID WATERS EDGE
FACE OF A CONCRETE SEAWALL TO A POINT LYING 5.70 FEET WEST
FROM THE NORTHWEST CORNER OF LOT 38, SAID BLOCK 98, FOR 114.65
FEET; THENCE RUN EAST TO SAID NORTHWEST CORNER OF LOT 38,
BLOCK 98, FOR 5.70 FEET; THENCE RUN SOUTH ALONG THE WEST LINE
OF LOT 38 AND LOT 39, SAID BLOCK 98 TO THE SOUTHWEST CORNER OF
THE AFORESAID LOT 39, BLOCK 98 FOR 114.65 FEET TO THE POINT OF
BEGINNING.

CONTAINING: 693.6 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
7/10/2019

CANAL DESCRIPTION

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SKETCH TO ACCOMPANY DESCRIPTION:

**SAN CARLOS CANAL RIGHT-OF-WAY,
CAPE CORAL, UNIT TWO, PART TWO,**

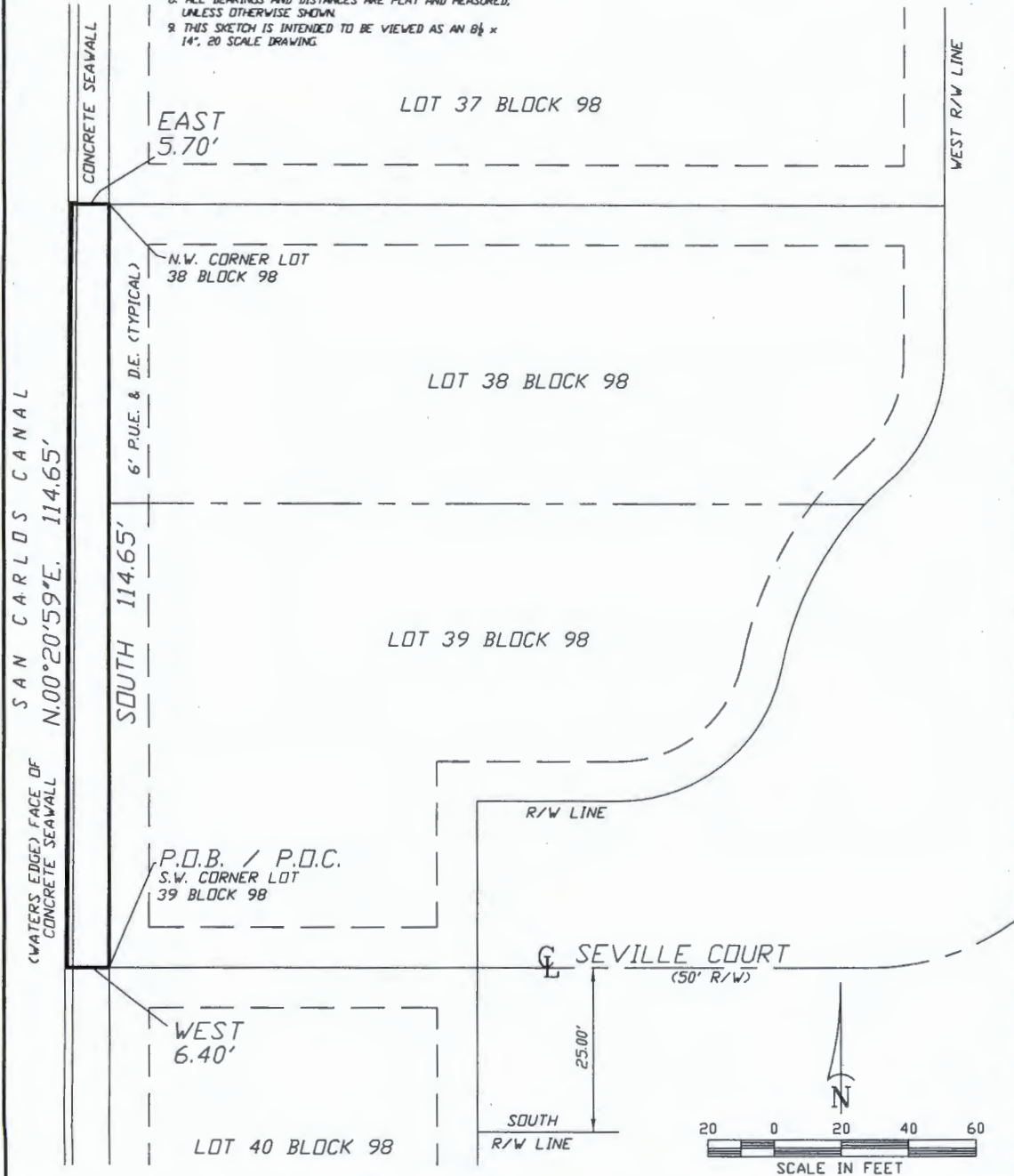
(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF SEVILLE COURT AS BEING "ASSUMED" AS "SOUTH."
2. FIELD NOTES IN CAPE CORAL BLOCK 98.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
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8. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

LEGEND:

OFFICIAL RECORDS BOOK
POINT OF BEGINNING
POINT OF COMMENCEMENT
RIGHT-OF-WAY
CENTERLINE
PUBLIC UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING



SKETCH TO ACCOMPANY DESCRIPTION
SEE EXHIBIT 'A' FOR DESCRIPTION
TO ACCOMPANY THIS SKETCH
"NOT A BOUNDARY SURVEY"

| | | | | |
|--------------------------|----------------------|-------------------|------------------------|--|
| DRAWN: PMM | CHECK: FBH | SCALE 1"=20' | PROJ. # CC-U2-98-38 | HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921 |
| SKETCH DATE 7/10/2019 | FILE NO. 45-23-13 | SHT.- 1 OF - 2 | | |

CANAL SKETCH

FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH :
(PROPOSED) VACATION OF A PORTION OF PUBLIC UTILITY AND
DRAINAGE EASEMENT LYING IN:

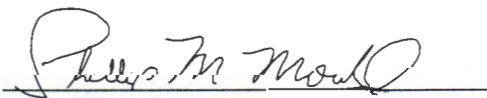
*LOTS 38 & 39, BLOCK 98,
CAPE CORAL, UNIT TWO, PART TWO,*

(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH,
RANGE 23 EAST, LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING FROM THE SOUTHWEST CORNER OF LOT 39, BLOCK 98, CAPE CORAL UNIT TWO, AS RECORDED IN PLAT BOOK 11, PAGES 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH ALONG THE WEST LINE SAID LOT 39, BLOCK 98, FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH ALONG SAID WEST LINE FOR 10.34 FEET; THENCE RUN N.00°20'59"E. FOR 92.31 FEET; THENCE RUN EAST FOR 5.44 FEET; THENCE RUN SOUTH 6.00 FEET EAST AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH THE WEST LINE SAID LOTS 38 AND 39, BLOCK 98, FOR 102.65 FEET; THENCE RUN WEST FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 589.88 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
9/27/2019

CANAL DESCRIPTION

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SKETCH TO ACCOMPANY DESCRIPTION:
(PROPOSED) VACATION OF A PORTION OF PUBLIC UTILITY AND
DRAINAGE EASEMENT LYING IN:

**LOTS 38 & 39, BLOCK 98,
CAPE CORAL, UNIT TWO, PART TWO,**

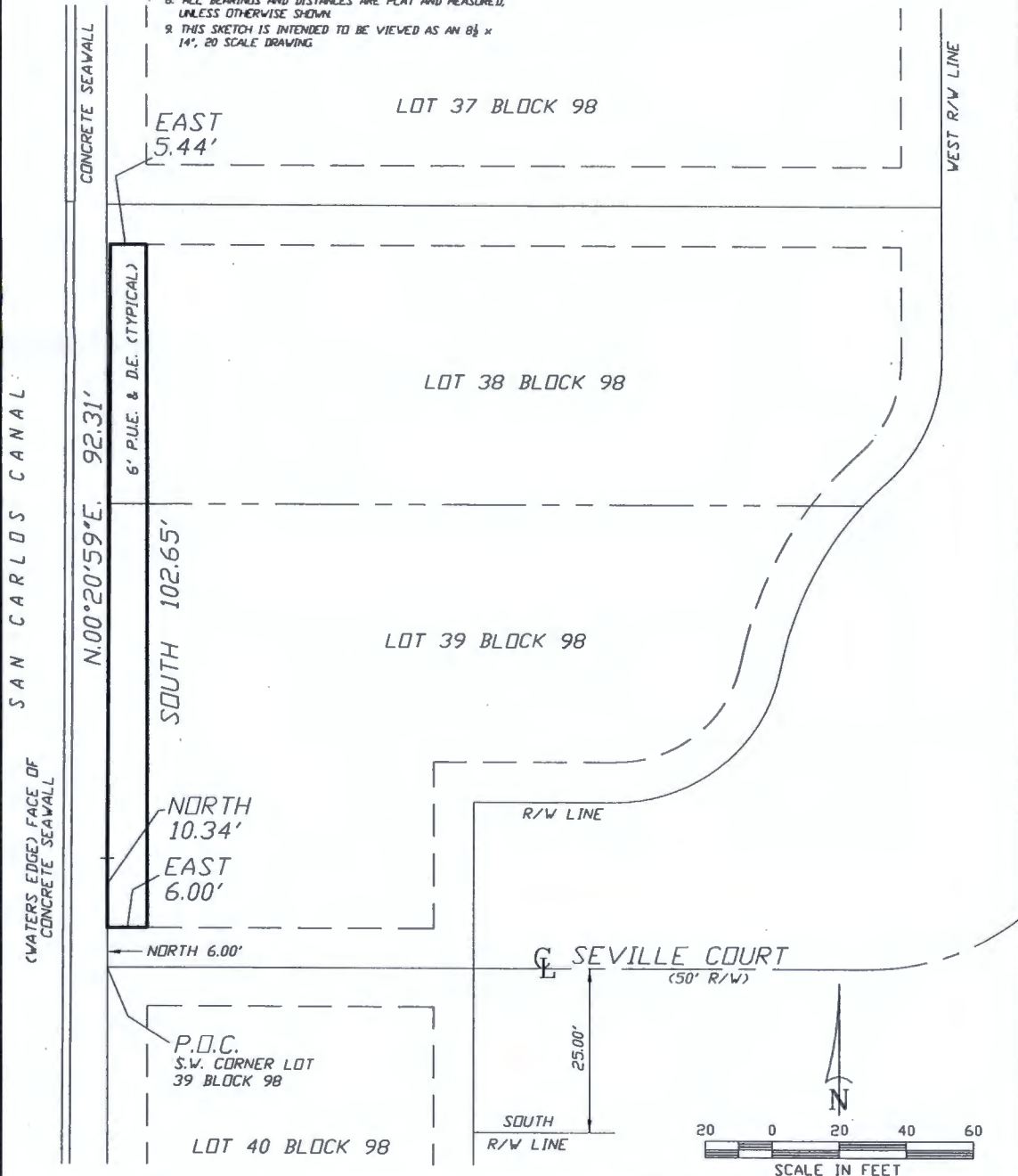
(PLAT BOOK 11, PAGES 96-98) SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

SKETCH NOTES:

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2. FIELD NOTES IN CAPE CORAL BLOCK 98.
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LEGEND:

OFFICIAL RECORDS BOOK
POINT OF BEGINNING
POINT OF COMMENCEMENT
RIGHT-OF-WAY
CENTERLINE
PUBLIC UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING



SKETCH TO ACCOMPANY DESCRIPTION
SEE EXHIBIT "A" FOR DESCRIPTION
TO ACCOMPANY THIS SKETCH
"NOT A BOUNDARY SURVEY"

| | | | |
|--------------------------|----------------------|-------------------|------------------------|
| DRAWN: PMM | CHECK: FBH | SCALE 1"=20' | PROJ. # CC-U2-98-38 |
| SKETCH DATE 9/27/2019 | FILE NO. 45-23-13 | SHT.- 1 OF - 2 | |

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

PUE VAC SKETCH

FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921

Prepared by and return to:
Title Professionals of Florida
13241 University Drive, Suite 103
Fort Myers, Florida 33907
Incidental to the issuance of a title insurance policy.
Parcel Identification Number: 13-45-23-C1-00098.0380
File Number: 18008257TPF

(Space Above This Line For Recording Data)

Warranty Deed

This Warranty Deed made this 19th day of March, 2018, by

Chriclar Corporation, a Florida corporation

hereinafter called the GRANTOR, to

Cape Seville, LLC, a Florida Limited Liability Company

whose post office address is 1217 Cape Coral Parkway E #346, Cape Coral, FL 33904,
hereinafter called the GRANTEE:

(Whenever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations.)

Witnesseth, that the GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the GRANTEE, all that certain land, situate in Lee County, Florida, viz:

Lots 38 and 39, Block 98, Unit 2, Part 2, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 11, pages 96 through 98, of the Public Records of Lee County, Florida.

Subject property is not now, never has been, nor is contiguous to the homestead property of the Grantor(s)

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2018 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND THE GRANTOR hereby covenants with said GRANTEE that except as above noted, the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, GRANTOR has hereunto has signed and sealed these presents the date set forth above.

Signed, sealed and delivered in our presence:
(TWO WITNESSES REQUIRED)

WITNESSES:

[Signature]
Signature of Witness
Printed Name of Witness: Gina Grable

[Signature]
Signature of Witness
Printed Name of Witness: PATRICIA A. MARTIN

[Signature]
Chriclar Corporation, A Florida Corporation
By: [Signature]
Elisabeth Ulrich-Cunz, President

STATE OF FLORIDA

COUNTY OF LEE

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared **Elisabeth Ulrich-Cunz, President, of Chriclar Corporation, a Florida Corporation**, known to me to be the person(s) described in and who executed the foregoing instrument, who acknowledged before me that: he, she and/or they, executed the same, and an oath was not taken. (Check one) ☐ Said person(s) is/are personally known to me. ☒ Said person(s) provided the following type of identification

Driver's License
WITNESS my hand and official seal in the County and State last aforesaid this 19th day of March, 2018.



[Signature]
Notary Public

Printed Name: _____

My Commission Expires: _____

SEAL



500' NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP19-0011

REQUEST: To vacate the platted rear public utility and drainage easement and a portion of the San Carlos Canal between the property line and the seawall. The area proposed for vacation between the seawall and the property line will be deeded to the city as a public utility and drainage easement to provide a continuous 6ft easement around the property.

LOCATION: 4980 Seville Court

CAPE CORAL STAFF CONTACT: Katherine Woellner, Planner, 239-574-0605, kwoellner@capecoral.net

PROPERTY OWNER(S): Cape Seville, LLC

AUTHORIZED REPRESENTATIVE: Brian Haag, Windward Construction, LLC

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on November 5, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice if this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0003852415

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$385.76

Run Times: 1

No. of Affidavits: 1

Run Dates: 10/26/19

Text of Ad:

NOTICE OF PUBLIC HEARING
CASE NUMBER: VP19-0011

REQUEST: The owner, Cape Seville, LLC, request a vacation of plat for a portion of the San Carlos Canal right-of-way and the underlying public utility and drainage easements located adjacent to Lots 38 and 39, Block 98, Cape Coral Unit 2, Part 2; and request a vacation of plat for public utility and drainage easements associated with Lots 38 and 39, Block 98, Cape Coral Unit 2, Part 2; property located at 4980 Seville Court.

CAPE CORAL STAFF CONTACT:
Katherine Woellner, Planner, 239-574-0605, kwoellner@capecoral.net

PROPERTY OWNER(S):
Cape Seville, LLC

AUTHORIZED REPRESENTATIVE: Brian Haag, Windward Construction, LLC

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on November 5, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available five days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice if this case is scheduled for a City Council hearing.

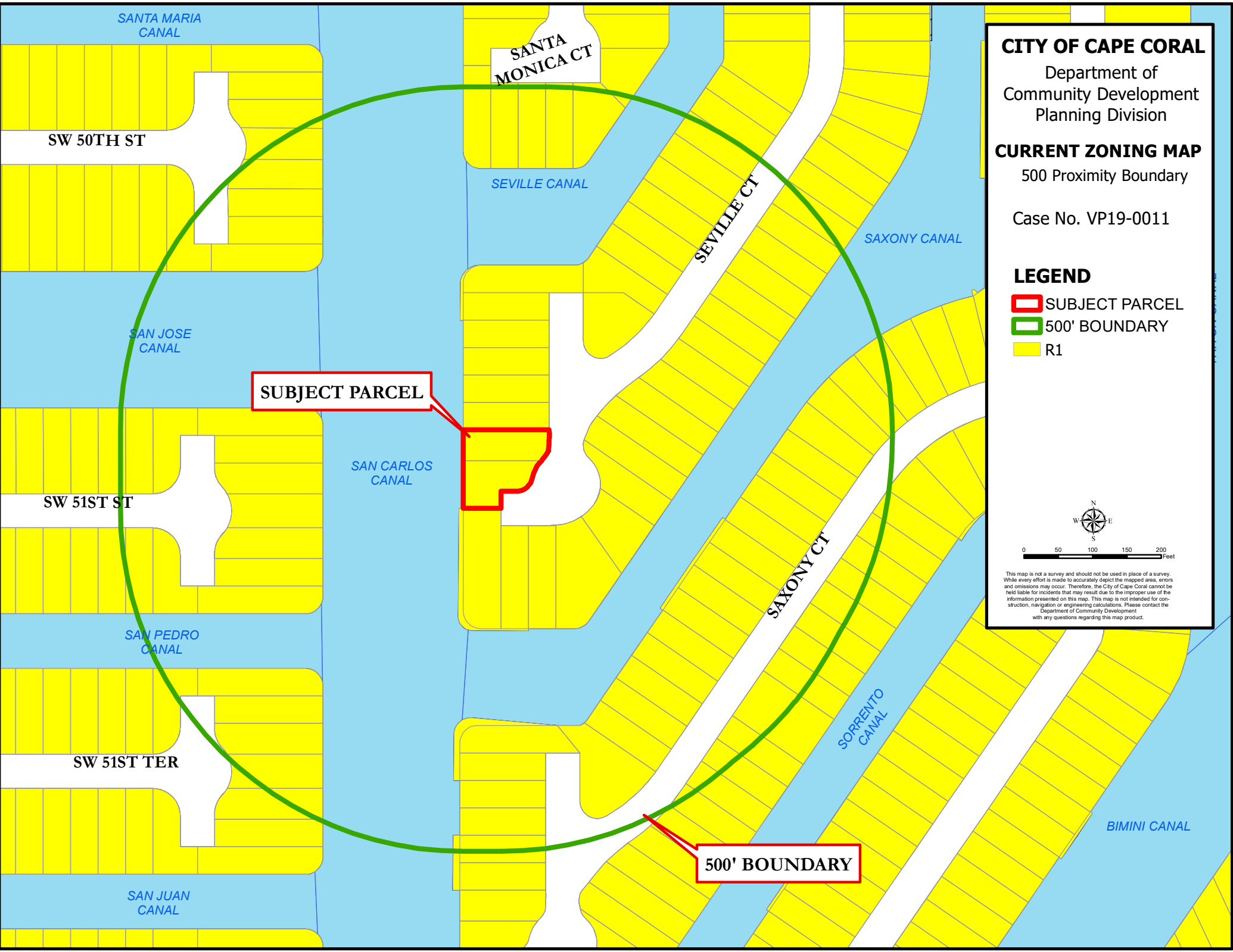
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by order of
Kimberly Bruns, CMC
City Clerk
REF # VP19-0011
AD# 3852415 Oct. 26, 2019



CITY OF CAPE CORAL




Department of
Community Development
Planning Division

CURRENT ZONING MAP

500 Proximity Boundary

Case No. VP19-0011

LEGEND

-  SUBJECT PARCEL
-  500' BOUNDARY
-  R1



0 50 100 150 200 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

AERIAL MAP

Case No. VP19-0011

LEGEND

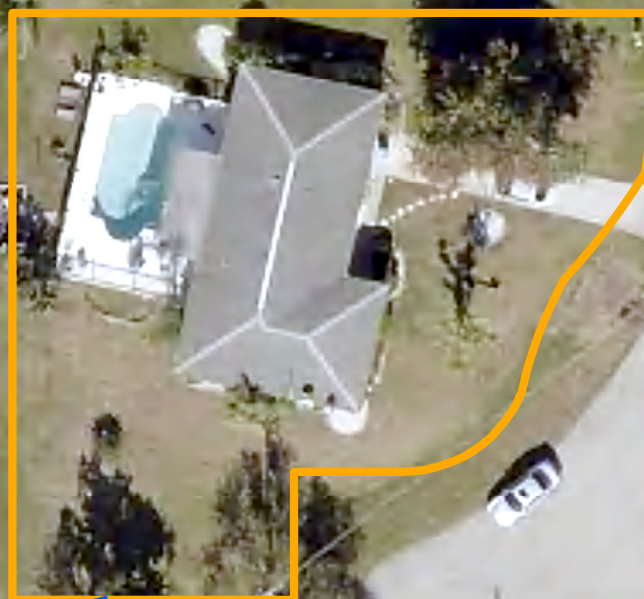
 SUBJECT PARCEL



0 10 20 30 40 Feet

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SUBJECT PARCEL



Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Cape Seville, LLC

APPLICATION NO: VP19-0011


STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 28th day of October, 2019.

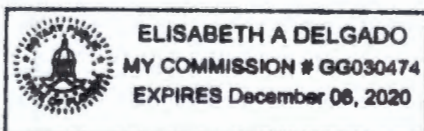


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of October, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/20 Commission # GG030474



Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

Item Number: 2.C.
Meeting Date: 11/5/2019
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

CASE#VP19-0012*;Address: 2712 SW 29th Court;George Thomas and Lynne Edwards

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The owners request vacating 215.96 sq . ft. of canal right-of-way (ROW) and all underlying easements of a portion of the Cape Coral Spreader Waterway and a portion of the Buddha Canal, both in Unit 93; and 158.75 sq . ft. of platted easements in Lot 1, Block 5961, Cape Coral Unit 93, and Tract 5961-B, Cape Coral Spreader Waterway.

LEGAL REVIEW:

EXHIBITS:

See Attached Backup Material.

PREPARED BY:

Jessica M. Division- Planning Department- Community
Cruz Development

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

ATTACHMENTS:

| Description | Type |
|------------------|-----------------|
| Backup Materials | Backup Material |



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

For Internal Use Only

Case VP19-0012

Date 8/16/19

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

SEP 10 19 AM 10:27

VACATION OF A PLAT, EASEMENTS, AND RIGHT-OF-WAY APPLICATION

INSTRUCTIONS

1. Application, Acknowledgement Form, Authorization to Represent.
 - a. All forms must be filled out completely and legible.
 - b. All forms must be signed by the property owner(s) and must be notarized.
 - c. If the owner does not own the property in his/her personal name (e.g. LLC, trust, etc.), the owner must sign all applicable forms in his/her corporate capacity.
 - d. If the authorized representative is an attorney, the application and the Acknowledgement Form may be signed by the attorney, and an Authorization to Represent Property Owner Form is not required.
2. Letter of intent clearly identifying the request and why the vacation is sought.
3. Proof of title to the tract or parcel of land covered by the plat or, of the plat of which vacation is sought.
4. Letters of approval from the following utility companies:

| Lee County Electric Cooperative, Inc. | Century Link (Telephone) | Comcast (Cable) |
|--|--|--|
| Russell Goodman | John Schroeder | Mark Cook |
| Design and engineering Coordinator | Engineer | Project Coordinator |
| LCEC PO Box 3455 North Ft Myers, FL 33918-3455 | 8441 Littleton Rd. North Fort Myers, FL 33903 | 12600 Westlinks Drive Suite 4 Fort Myers, FL 33913 |
| Russel.goodman@lcec.net | John.schroeder@centurylink.com | Mark_cook@comcast.com |
| (239) 656-2112 | (239) 336-2012 | (239) 432-1805 |

5. Sketches and legal descriptions of the area proposed to be vacated.
6. If there are any deed restrictions on the property, a copy of the restrictions will be required.
7. Certified topographic survey (done within the past six months, and showing all pavement, utility and drainage features in said area, including but not limited to water, sewer and irrigation lines and manholes; power, cable and utility lines and poles; catch basins, inlets, pipes, and swales. In the case where no features exist, a signed, sealed and dated certification by a Florida registered Professional Engineer can be submitted which certifies that there are no such roadway, utility or drainage features within the limits of and adjacent to the proposed vacated area.
8. Any additional required supporting documents.
9. Refer to LDC, Section 3.4.5 for information on regulations concerning vacations.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

VACATION OF PLAT REQUEST TO THE HEARING EXAMINER AND CITY COUNCIL

FEE: \$843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise the case may be continued to a future hearing date.

If the vacation is approved, the applicant shall be responsible for reimbursing the City to record the final resolution or ordinance with the Lee County Clerk of Court. Until these fees are paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the City from issuing any applicable building permits, site plans, or certificates of occupancy for any property covered by the resolution or ordinance.

OWNER (S) OF PROPERTY INFORMATION

Owner George Stephen Thomas
Phone 303-349-6521

Address 4616 Sonada Place
City Parker State CO Zip 80134

Owner Lynne M. Edwards
Phone 303-349-6521

Address 4616 Sonada Place
City Parker State CO Zip 80134

APPLICANT INFORMATION

Applicant Brian Haas
Phone 239.229.1199

Address 1309 Cape Coral Pkwy E
City Cape Coral State FL Zip 33904

AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)

Representative Brian Haas
Phone 239.229.1199

Address 1309 Cape Coral Pkwy E
City Cape Coral State FL Zip 33904

PROPERTY INFORMATION

Unit 93 Block 5961 Lot (s) 1 & TRB Subdivision Cape Coral

Property Address 2712 SW 29TH CT

Plat Book 25 Page 10

Current Zoning Residential Strap Number 32.44.23.C1.05961.0010



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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(SIGNATURE MUST BE NOTARIZED)

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

Windward Construction
CORPORATION/COMPANY NAME

OWNER'S NAME (PLEASE TYPE OR PRINT)

Brian Haag

APPLICANT NAME (PLEASE TYPE OR PRINT)

OWNER'S SIGNATURE

(X)

APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF FL, COUNTY OF Lee

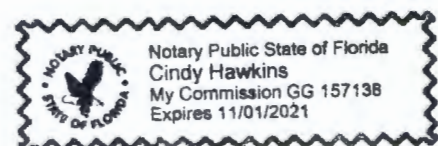
Subscribed and sworn to (or affirmed) before me this 10th day of September

2019, by Brian Haag who is personally known or produced
as identification.

Exp Date: _____ Commission Number: _____

Signature of Notary Public: Cindy Hawkins

Printed name of Notary Public: _____





DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

Tel. (239) 574-0776
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner and City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising and recording costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have read and understood the above affidavit on the 9th Day
of September, 20 19.

Windward Construction
CORPORATION/COMPANY NAME

Lynne M. Edwards
OWNER'S NAME (TYPE or PRINT)

(X) Lynne M. Edwards
OWNER'S SIGNATURE

STATE OF Florida, COUNTY OF Lee

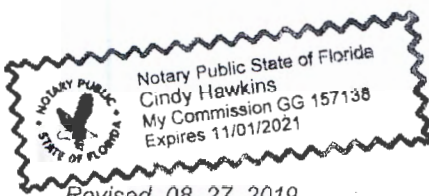
Subscribed and sworn to (or affirmed) before me this 9th day of September,
20 19, by Lynne M. Edwards who is personally known or produced
as identification.

Exp Date: _____

Commission Number: C

Signature of Notary Public: Cindy A

Printed name of Notary Public: _____



Revised_08_27_2019



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

Tel. (239) 574-0776
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

ACKNOWLEDGEMENT FORM

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Please obtain all necessary permits prior to commencing any phase of construction.

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I hereby acknowledge that I have read and understood the above affidavit on the 9th Day

of September, 20 19.

Windward Construction George Thomas
CORPORATION/COMPANY NAME OWNER'S NAME (TYPE or PRINT)

[Signature]
OWNER'S SIGNATURE

STATE OF Florida, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 9th day of September,
20 19, by George Thomas who is personally known or produced
as identification.

Exp Date: _____

Commission Number: _____



Signature of Notary Public: [Signature]

Printed name of Notary Public: _____



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Brian Haag
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING

EXAMINER AND CITY COUNCIL FOR:

Vacation of Plat
(Type of Public Hearing, PUD, Rezone, Special Exception, Vacation of Plat, Variance, etc.)

UNIT 93 BLOCK 59101 LOT(S) 1*TRB SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION 2712 SW 29TH CT

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

George ~~STEVEN~~ Thomas
PROPERTY OWNER (Please Print)

(X) George Thomas
PROPERTY OWNER (Signature & Title)

Lynne M. Edwards
PROPERTY OWNER (Please Print)

(X) Lynne M. Edwards
PROPERTY OWNER (Signature & title)

STATE OF Florida, COUNTY OF Lee
Subscribed and sworn to (or affirmed) before me this 9th day of September

20 19, by George Thomas / Lynne Edwards who is personally known or produced

_____ as identification.

Exp Date: _____

Commission Number: _____



Signature of Notary Public: Cindy Hawkins

Printed name of Notary Public: _____

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation papers.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

DOCUMENTARY EVIDENCE (LDC, Section 3.1.11F.6)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than three business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

Brian Haas

OWNER/APPLICANT
(PLEASE TYPE OR PRINT)

(X)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF Florida, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 10th day

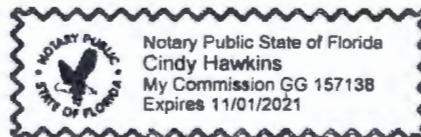
of September, 2019, by Brian Haas who is

personally known or produced as identification.

Exp Date: _____ Commission Number: _____

Signature of Notary Public: Cindy Hawkins

Printed name of Notary Public: _____





July 30, 2019

Director Vince Cautero
Department of Community Development
City of Cape Coral
PO Box 150027
Cape Coral, FL 33915-0027

Re: Vacation of Plat Application
2712 SW 29th Court
CAPE CORAL UNIT 93 BLK 5961 PB 25 PG 10 LOT 1 + TR B

Dear Mr. Cautero,

As the representative for the applicants regarding the above address; we are requesting a Vacation of Plat for the small sliver of land adjacent to the seawall. The homeowners need to utilize this property to get their pool to conform to setbacks.

Attached please find my letters of "no objection" from the utility companies and sketches and descriptions of the area to be vacated.

I appreciate your consideration of this request. Please do not hesitate to contact me should you have any questions.

Sincerely,

Brian Haag
Windward Construction
239-229-1199
Bh4610@gmail.com

Prepared by
James J. Hurchalla & Associates, P.A.
1700 East Las Olas Boulevard, Ste 206
Fort Lauderdale, FL 33301
(954) 462-6776

Return to: Grantee

File No.: 18-2-012

SPECIAL WARRANTY DEED

State of **Florida**

County of **Lee**

THIS SPECIAL WARRANTY DEED is made 3/09/2018, between

**Advanta IRA Trust, LLC (now known as Midland Trust Company) FBO Hugh Frame IRA #
6658801**

having a business address at: **P.O. BOX 07520 , Fort Myers, FL 33919**
("Grantor"). and

George Steven Thomas and Lynne M Edwards, husband and wife

having a mailing address of: **4616 Sonada Place , Parker, CO 76109**
("Grantee"),

WITNESSETH, that the said Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, remised, released, conveyed and confirmed unto said "Grantee", it's successors and assigns forever, following described land, situate, lying and being in the County of **Lee**, State of **Florida**, to-wit:

Parcel 1:

Lot 1, Block 5961, Cape Coral Unit 93, a subdivision according to the map or plat thereof, as recorded in Plat Book 25, Page(s) 1 through 21, inclusive, of the Public Records of Lee County, Florida.

Parcel 2:

Tract 5961 B, Block 5961, Cape Coral Spreader Waterway, a subdivision according to the map or plat thereof, as recorded in Plat Book 32, Page(s) 48 through 111, inclusive, of the Public Records of Lee County, Florida.

Tax Parcel Identification Number: **32-44-23-C1-05961.0010**

DocuSign Envelope ID: 6111BAFF-9A6B-497, 28-7EA0BD24222B

SUBJECT, however, to all reservations, covenants, conditions, restrictions and easements of record and to all applicable zoning ordinances and/or restrictions or requirements imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

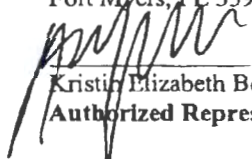
AND Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2017. That it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, Grantor has signed and sealed these presents on the date first above written.

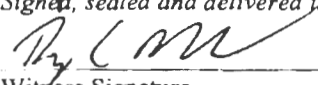
Advanta IRA Trust, LLC (now known as Midland Trust Company) FBO Hugh Frame IRA # 6658801

PO BOX 07520

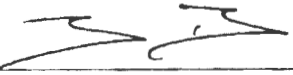
Fort Myers, FL 33919


Kristin Elizabeth Bennett
Authorized Representative

Signed, sealed and delivered in our presence:


Witness Signature

Print Name: Ryan C. Mizak


Witness Signature

Print Name: J. Bergantino

State of Florida IL
County of Lee Cook

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED before me on 3/09/2018, by Kristin Elizabeth Bennett, as **Authorized Representative**, on behalf of **Advanta IRA Trust, LLC (now known as Midland Trust Company) FBO Hugh Frame IRA # 6658801**, who is personally known to me or who has produced a valid drivers license as identification.




NOTARY PUBLIC

Justin Clark

Printed Name of Notary

My Commission Expires: 1/8/20

SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23
EAST, LEE COUNTY, FLORIDA

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF S.W. 29TH COURT AS BEING S26°49'37"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3691.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND INFORMATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. ISSUANCE OF THIS DRAWING, FROM THIS FIRM SHALL NOT RELIEVE OWNER, BUILDER AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES, DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. OWNER MAY NEED TO ADJUST ELEVATIONS AND SETBACKS PRIOR TO CONSTRUCTION IF OTHER RESTRICTIONS EXIST.
10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 1/8"=1', 20 SCALE DRAWING.

THIS SURVEY IS CERTIFIED TO
WINDWARD CONSTRUCTION
GEORGE STEVEN THOMAS & LYNNE M. EDWARDS


SET #4 IRON ROD (CAP LB #692)
 FOUND IRON ROD (L.R.)
 CONCRETE MONUMENT (CM)
 PERMANENT REFERENCE MONUMENT
 PUBLIC UTILITY EASEMENT
 DRAINAGE EASEMENT
 POINT OF CURVATURE
 OFFICIAL RECORDS BOOK
 AS PER SURVEY
 AS PER PLAT
 CURVE NUMBER
 LINE NUMBER
 RIGHT-OF-WAY
 CENTERLINE

| | |
|--------|-------------------|
| R.V.M. | RECLAIM WATER BOX |
| W.B. | WATER, WATER |
| O/H | OVERHEAD POWER |
| P.P. | PIVOT POLE |
| G.A.W. | GUY ANCHOR & WIRE |
| T.S.B. | TELEPHONE SERVICE |
| N/D | NAIL & DISK |
| N/T.T. | NAIL & TINTAB |
| ELEV. | ELEVATION |
| B.M. | BENCHMARK |
| ♂ | TYPICAL ELEVATION |
| A/C | AIR CONDITIONER |
| W.S. | WATER SYSTEM |
| P.E. | POOL EQUIPMENT |
| — | CONCRETE |
| F.H. | FIRE HYDRANT |
| W.V. | WATER VALVE |
| ♂ | |
| | DWL NEST (BURROW) |



Radius= 50.00'
Delta= 122°08'14"
Arc= 106.58'
Chord= 87.52'
Chord Brg.= S.63°28'10"E.

Radius= 147.01'
Delta= 17°19'17"
Arc= 44.44'
Chord= 44.27'
Chord Brg.= S.37°29'12"E.

| | | | |
|--|-------------|---------------|--|
| REVISED | DESCRIPTION | BY |  |
| | | | |
| | | | |
| DATE OF LAST FIELD WORK: 7/15/19 | | | PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER #6515 - STATE OF FLORIDA |
| DRAWN: [CHECK] | SCALE | PROJ. # | HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921 |
| PMM | FBH 1"=20' | CC-U93-9961-1 | |
| SURVEY DATE | FILE NO | SHT. - 1 | |
| 7/15/19 | 44-23-32 | DF - 1 | |
| FLORIDA CERTIFICATE OF AUTHORIZATION # 1.B6921 | | | |

FLORIDA CERTIFICATE OF AUTHORIZATION N LB6921



| ✕ | STRAP | Folio | Owner Name | Site Address |
|---|------------------------|----------|------------------------|----------------------------|
| i | 32-44-23-C1-05961.0010 | 10088707 | THOMAS GEORGE STEVEN & | 2712 SW 29TH CT, CAPE CORA |



July 19, 2019

Kelly J. Michaels
Windward Construction
kmichaels.windward@gmail.com

Re: Vacation of Easements – 2712 SW 29th Court, CAPE CORAL FL

Dear: Kelly J. Michaels,

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the documents for the above referenced property. Based on the review, we have no objections to the proposed vacation of public utility easements shown on the plats provided.

If you should require additional information, please contact me at 239 336-2012.

Sincerely,

John C. Schroeder
Engineer
Fort Myers District
CenturyLink
John.schroeder@centurylink.com



**12600 Westlinks Drive
Fort Myers, Fl. 33913
Phone: 239-432-1805**

June 25, 2019

Windward Construction Inc.

Re: 2712 SW 29th Ct. Cape Coral

Dear Kellie Michaels,

This letter will serve to inform you that Comcast has no objection to your proposed work of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 239-432-1805.

Cordially,

A handwritten signature in blue ink, appearing to read 'Mark Cook'.

**Mark Cook
Project Coordinator**



Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 • Fax (239) 995-7904
www.lcec.net

July 19, 2019

Kellie Michaels
Winward Construction
4818 Coronado Parkway
Suite 16
Cape Coral, FL 33904

Re: Letter of No Objection to Vacation of Canal right of Way 2712 SW 29th Court, Cape Coral, FL 33904; Owners: George Steven Thomas and Lynne M. Edwards, husband and wife; Strap: 32-44-23-C1-05961.0010.

Dear Ms. Michaels:

You have opened up negotiations, on behalf of your customer, the Thomas and Edwards.

We have reviewed the sketch, the request submitted, and our internal records. The request is to straighten out or expand the property line southwestward to compensate for a jog in the southwest canal/property line. LCEC has **no objection** to the request. The company services the parcel from the road side.

However, LCEC requires a continuous perimeter easement surrounding your property in order to serve your customer. Therefore, in the after situation to the vacation, the petitioner will have to provide to the appropriate local jurisdiction, and impose a six-foot wide easement along the seawall and the side easements so that there is a continuous perimeter easement located upon the parcel.

In the event no definitive action, or no approval by local jurisdiction be received by the petitioner, this letter will terminate upon six months from the date listed above.

Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russ Goodman, Digitally signed by Russ
SR/WA Goodman, SR/WA
Date: 2019.07.19
09:51:20 -04'00'

Russel Goodman, SR/WA
Design & Engineering Coordinator – Land Rights

Review Date: October 22, 2019

Property Owners: George Steven Thomas and Lynne M. Edwards

Owner Address: 4616 Sonada Place
Parker, CO 80134

Rep.: Brian Haag

Request: The owners request vacating 215.96 sq. ft. of canal right-of-way (ROW) and all underlying easements of a portion of the Cape Coral Spreader Waterway and a portion of the Buddha Canal, both in Unit 93; and 158.75 sq. ft. of platted easements in Lot 1, Block 5961, Cape Coral Unit 93, and Tract 5961-B, Cape Coral Spreader Waterway.

Property Location: 2712 SW 29th Court
Lot 1, Block 5961, Cape Coral Unit 93 and Tract 5961-B, Block 5961, Cape Coral Spreader Waterway
Strap number: 32-44-23-C1-05961.0010

Prepared By: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

Approved By: Robert H. Pederson, AICP, Planning Manager

Recommendation: **Approval with conditions**

Urban Service Transition

Property Description:

The applicants own an irregular, 17,755 sq. ft. site in southwestern Cape Coral. The rear of the site has frontage along the Spreader Waterway and the Buddha Canal (Figure 1). The Spreader Waterway is a saltwater canal with a platted width of 200 feet at the owner's site. The site has a Single Family Future Land Use Classification (FLUC) and Single Family Residential (R-1) Zoning, and except for lands to the west, all properties within 2,000 feet share the same FLU and zoning classifications. Property to the west of the Spreader Waterway is owned by the state of Florida and has a Natural Resources/Preservation FLUC and is not zoned. Uses on these lands are regulated by the FLUC

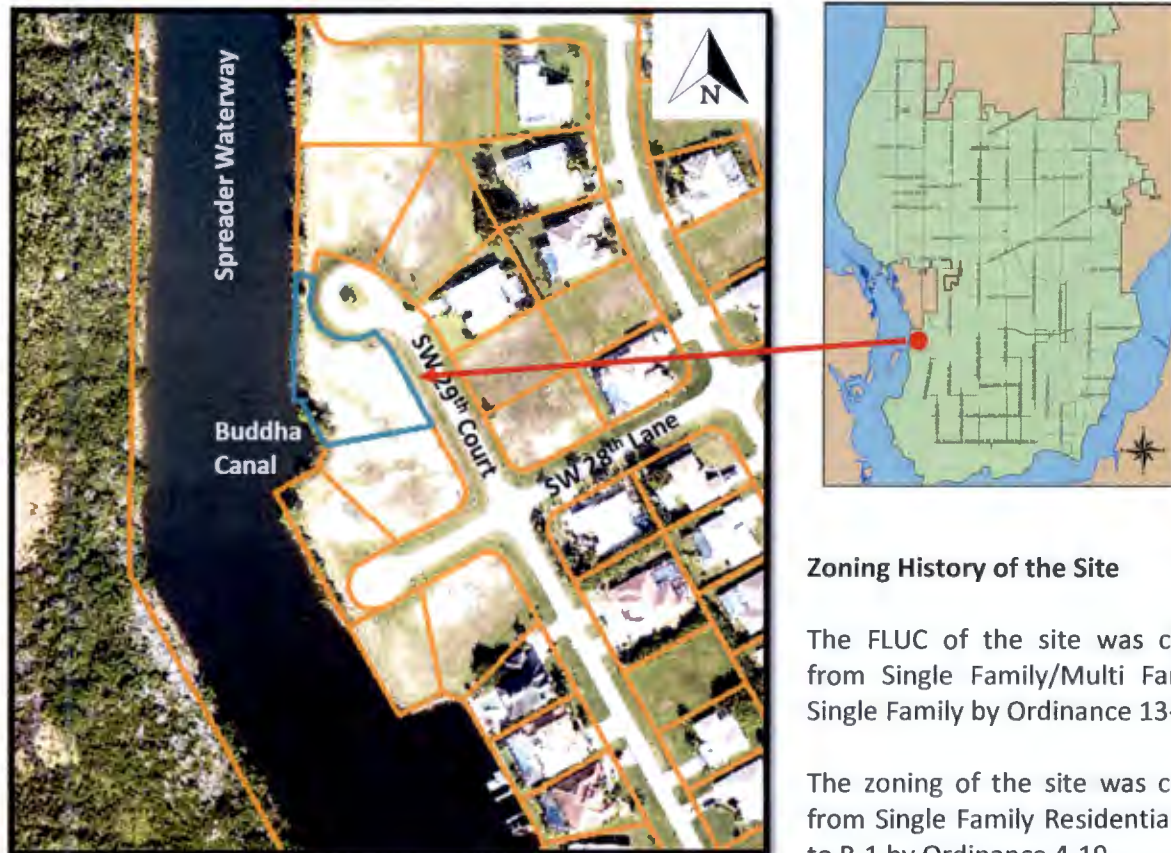
Other than a seawall that was constructed in 2018, the site is undeveloped. Surrounding sites east of the Spreader Waterway consist of platted lots, the majority of which are developed with single-family homes.

Requests

A surveyor sketch of the site shows a narrow triangular area of canal ROW between the western property line and the outer edge of the seawall. For most platted water-front sites in the City, the rear property line extends to the edge of the canal. The applicant requests vacating this ROW totaling 215.96 sq. ft. to

extend the site to the edge of the seawall. Platted easements along the rear property line are also requested to be vacated.

Figure 1. Aerial view of the site outlined in blue along the Spreader Waterway and Buddha Canal.



Zoning History of the Site

The FLUC of the site was changed from Single Family/Multi Family to Single Family by Ordinance 13-03.

The zoning of the site was changed from Single Family Residential (R-1B) to R-1 by Ordinance 4-19.

Analysis:

Staff analyzed this request with the Land Development Code (LDC), Section 3.4.5, "*Vacation of Plats, Easements, and Rights-of-way.*" The City Comprehensive Plan was also reviewed for policies on vacations.

The owners request vacating 215.96 sq. ft. of canal right-of-way (ROW) and all underlying easements associated with portions of the Cape Coral Spreader Waterway and the Buddha Canal. A total of 158.75 sq. ft. of platted easements lying in Lot 1, Block 5961, Cape Coral Unit 93 and in Tract 5961-B, Cape Coral Spreader Waterway are also requested to be vacated.

The applicants own the site for which the vacations are sought. The City lacks infrastructure in all easements requested to be vacated. Letters of no objection have been provided from Century Link, Comcast, and LCEC. However, LCEC does require that the owners provide a continuous easement around the site.

LDC, Section 3.4.5B state vacations shall be reviewed in accordance with the following criteria:

1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes. **Staff response: The canal ROW and underlying easements are small in area and isolated. As a result, the ROW and easements will not provide a future transportation, public access, water management, or other foreseeable public benefit. The platted easements requested to be vacated are not needed because the owners will grant to the City a replacement easement along the perimeter of the expanded site to accommodate future utility installation and drainage functions.**
2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way. **Staff response: As a condition of approval, the owners will grant to the City new easements that will be sufficient for maintaining a continuous public utility and drainage easement around the site.**
3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas. **Staff response: While a small area of canal ROW will be vacated, this ROW consists of upland areas. Boaters traveling on either Spreader Waterway or Buddha Canal will therefore not be adversely affected by this vacation.**
4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area. **Staff response: This vacation involves a small upland area of canal ROW. As a result, the vacation will not result in the closure of a canal nor will the request adversely affect the movement of boats.**
5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation. **Staff response: All three utility providers have provided letters of no objection to the requested vacations. LCEC does require that a continuous easement be provided around the perimeter of the site. The applicants have provided a sketch and a legal description for the replacement easements requested by LCEC that staff will require as a condition of approval.**

Consistency with the Comprehensive Plan

The City lacks specific policies in the Comprehensive Plan for vacations involving residential-zoned lands.

This request is consistent with Policy 1.15 of the Future Land Use Element.

Policy 1.15: *Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.*

- a. Single Family Residential: Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.

Staff comment: This request is consistent with Policy 1.15.a as the site is ±17,971 sq. ft. following the ROW vacation and the property will have one single-family home. This equates to a density of 2.42 dwelling units (DU) per acre, less than the maximum density of 4.4 DU per acre allowed in this FLUC.

Recommendation:

Based on the above analysis, staff recommends **approval** of all requested vacations with the following conditions.

Conditions of Approval

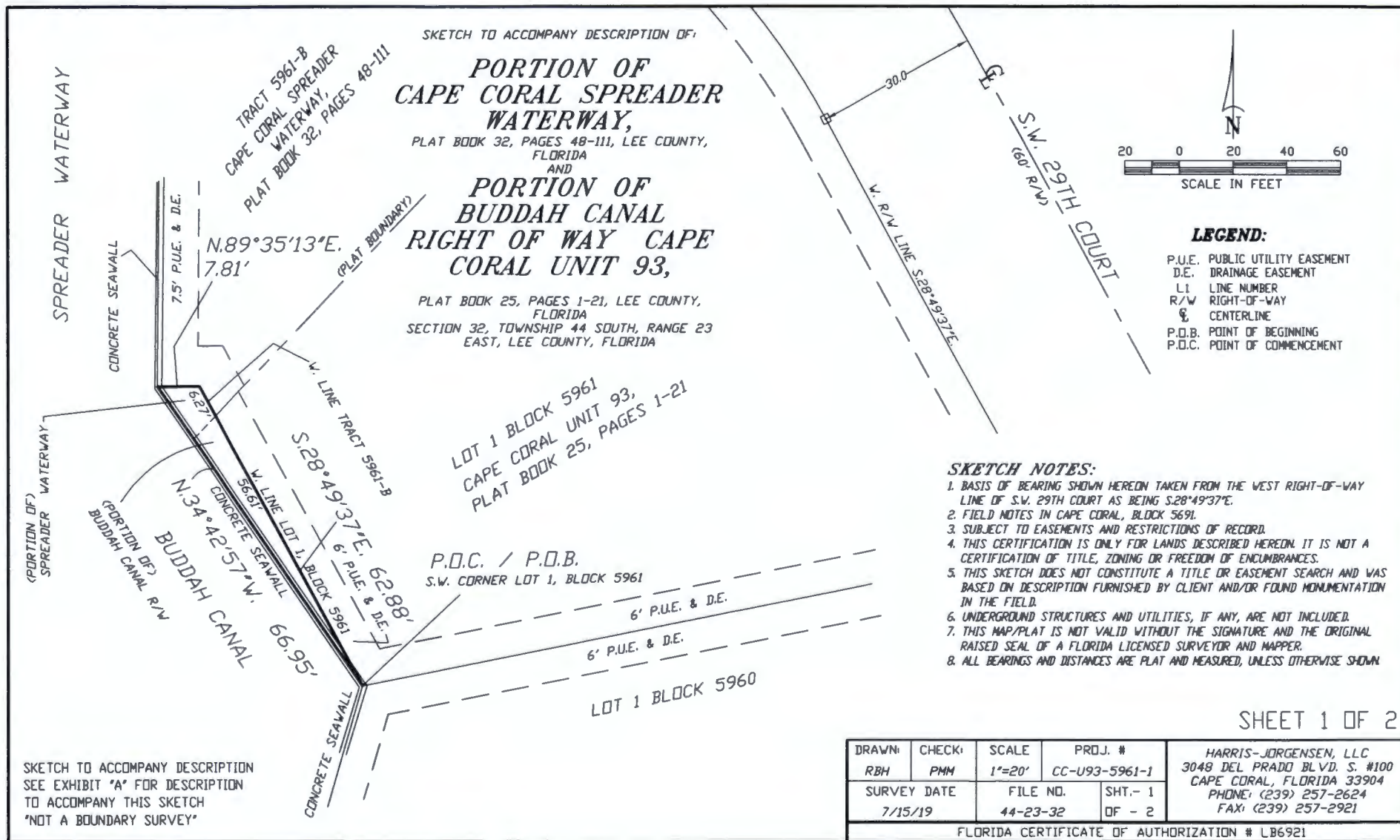
1. The vacation of the 215.96 sq. ft. of ROW and all underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC entitled *"Portion of Cape Coral Spreader Waterway"*, dated July 15, 2019.
2. The vacation of the 158.75 sq. ft. of easements in Lot 1, Block 5961, Cape Coral Unit 93 and Tract 5961-B, Cape Coral Spreader Waterway shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC entitled *"(Vacation of) A Portion of Public Utility and Drainage Easement Lying in Lot 1, Block 5961, Cape Coral Unit 93, and Portion of Public Utility and Drainage Easement Lying in Tract 5961-B, Cape Coral Spreader Waterway"*, dated July 15, 2019.
3. Within 60 days from the date of adoption of this vacation, the owners shall provide to the City an easement deed for a 7.5-foot wide easement consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated July 15, 2019, entitled *"A Public Utility and Drainage Easement Lying in a Portion of Cape Coral Spreader Waterway and Portion of Buddha Canal Right of Way, Cape Coral, Unit 93."* This deed shall be approved by the City Property Broker prior to execution.
4. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the owner provides the City with an easement deed as described in Condition #3 above and reimburses the City for all recording fees associated with this resolution and the easement deed.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

PH: 239-242-3255

Email: mstruve@capecoral.net



SHEET 1 OF 2

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH OF:

**PORTION OF
CAPE CORAL SPREADER WATERWAY,**

PLAT BOOK 32, PAGES 48-111, LEE COUNTY, FLORIDA
AND

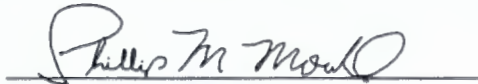
**PORTION OF
BUDDAH CANAL RIGHT OF WAY
CAPE CORAL UNIT 93,**

PLAT BOOK 25, PAGES 1-21, LEE COUNTY, FLORIDA
SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA

DESCRIPTION:

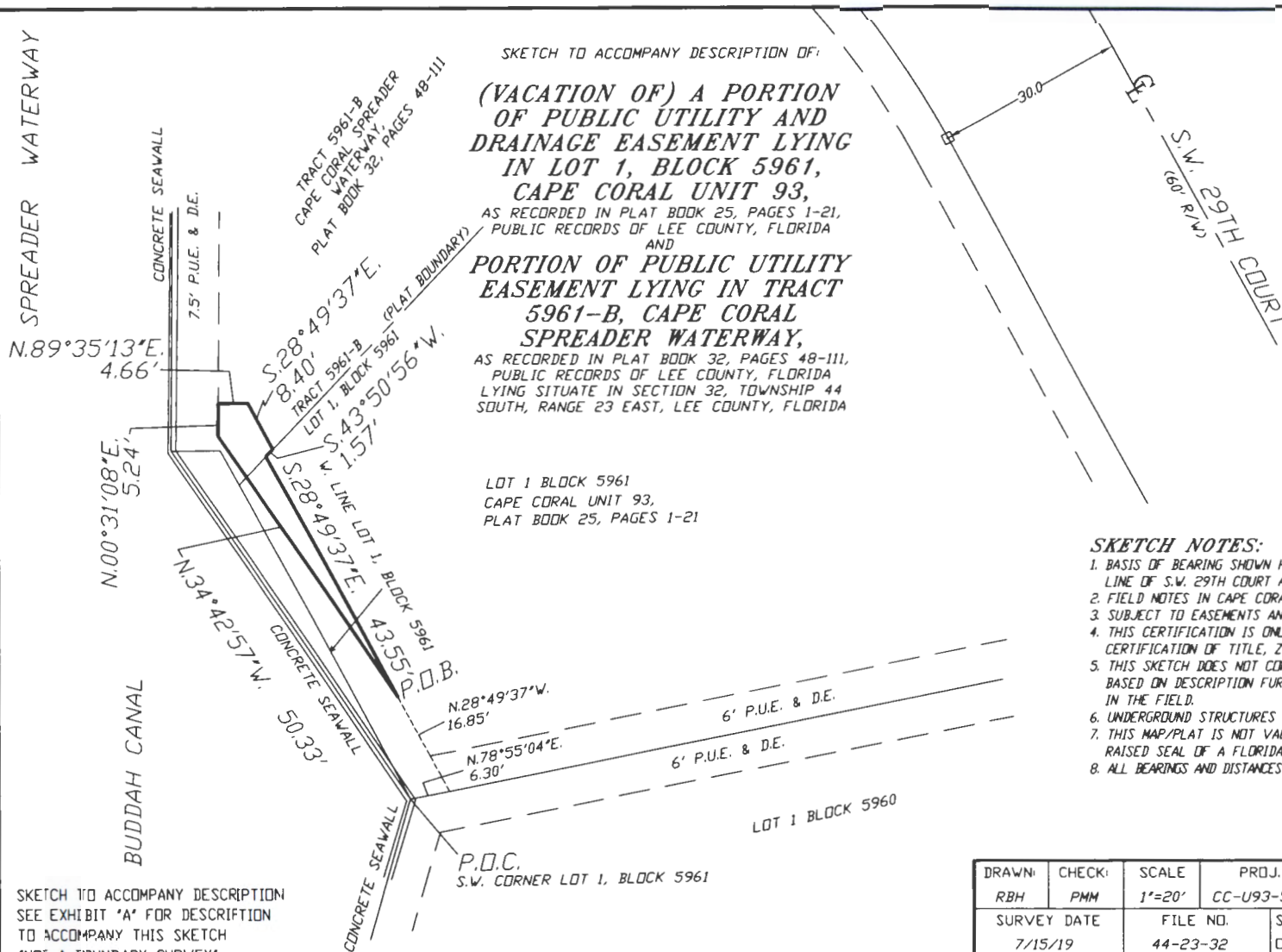
VACATION OF A PORTION OF CANAL RIGHT OF WAY, PLAT OF CAPE CORAL SPREADER WATERWAY, AS RECORDED IN PLAT BOOK 32, PAGES 48-111, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND A PORTION OF BUDDAH CANAL RIGHT OF WAY, CAPE CORAL UNIT 93, AS RECORDED IN PLAT BOOK 25, PAGES 1 THROUGH 21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BLOCK 5961, CAPE CORAL UNIT 93, PLAT BOOK 25, PAGES 1-21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID SOUTHWEST CORNER LYING ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL AND THE RIGHT OF WAY OF AFORESAID BUDDAH CANAL FOR A POINT OF BEGINNING; THENCE RUN N.34°42'57"W. ALONG SAID SEAWALL FOR 66.95 FEET; THENCE RUN N.89°35'13"E. ALONG THE SOUTH LINE OF TRACT 5961-B, CAPE CORAL SPREADER WATERWAY, AS RECORDED IN PLAT BOOK 32, PAGES 48-111, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR 7.81 FEET; THENCE RUN S.28°49'37"E. ALONG THE AFORESSAID SPREADER WATERWAY AND BUDDAH CANAL RIGHT OF WAY TO THE AFORESAID SOUTHWEST CORNER OF LOT 1, BLOCK 5961, CAPE CORAL UNIT 93, FOR 62.88 FEET TO THE POINT OF BEGINNING.

CONTAINING: 215.96 SQUARE FEET, MORE OR LESS.



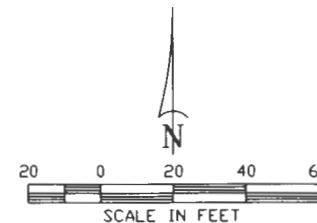
PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
7/17/19

SPREADER WATERWAY



SKETCH TO ACCOMPANY DESCRIPTION OF:
**(VACATION OF) A PORTION
 OF PUBLIC UTILITY AND
 DRAINAGE EASEMENT LYING
 IN LOT 1, BLOCK 5961,
 CAPE CORAL UNIT 93,**
 AS RECORDED IN PLAT BOOK 25, PAGES 1-21,
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA
 AND
**PORTION OF PUBLIC UTILITY
 EASEMENT LYING IN TRACT
 5961-B, CAPE CORAL
 SPREADER WATERWAY,**
 AS RECORDED IN PLAT BOOK 32, PAGES 48-111,
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA
 LYING SITUATE IN SECTION 32, TOWNSHIP 44
 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA

LOT 1 BLOCK 5961
 CAPE CORAL UNIT 93,
 PLAT BOOK 25, PAGES 1-21



LEGEND:

- P.U.E. PUBLIC UTILITY EASEMENT
- D.E. DRAINAGE EASEMENT
- L.I. LINE NUMBER
- R/W RIGHT-OF-WAY
- CL CENTERLINE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF S.W. 29TH COURT AS BEING S.28°49'37"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 5961.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.

SHEET 1 OF 2

SKETCH TO ACCOMPANY DESCRIPTION
 SEE EXHIBIT 'A' FOR DESCRIPTION
 TO ACCOMPANY THIS SKETCH
 "NOT A BOUNDARY SURVEY"

| | | | | |
|---|----------------------|-------------------|--------------------------|--|
| DRAWN: RBH | CHECK: PMM | SCALE 1"=20' | PROJ. # CC-U93-5961-1 | HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921 |
| SURVEY DATE 7/15/19 | FILE NO. 44-23-32 | SHT.- 1 OF - 2 | | |
| FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921 | | | | |

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH OF:

**(VACATION OF) A PORTION OF PUBLIC UTILITY
AND DRAINAGE EASEMENT LYING IN LOT 1,
BLOCK 5961, CAPE CORAL UNIT 93,**

AS RECORDED IN PLAT BOOK 25, PAGES 1-21, PUBLIC RECORDS OF LEE COUNTY,
FLORIDA
AND

**A PORTION OF PUBLIC UTILITY EASEMENT LYING IN
TRACT 5961-B, CAPE CORAL SPREADER WATERWAY,**

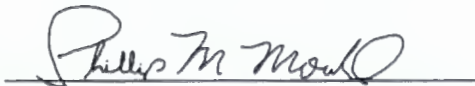
AS RECORDED IN PLAT BOOK 32, PAGES 48-111, PUBLIC RECORDS OF LEE COUNTY,
FLORIDA
LYING SITUATE IN SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY,
FLORIDA

DESCRIPTION:

VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT LYING LOT 1, BLOCK 5961, CAPE CORAL UNIT 93, AS RECORDED IN PLAT BOOK 25, PAGES 1-21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND A PORTION PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN TRACT 5961-B, PLAT OF CAPE CORAL SPREADER WATERWAY, AS RECORDED IN PLAT BOOK 32, PAGES 48-111, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID VACATED PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BLOCK 5961, CAPE CORAL UNIT 93, PLAT BOOK 25, PAGES 1-21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE RUN N.78°55'04"E. ALONG THE SOUTH LINE SAID LOT 1, BLOCK 5961, CAPE CORAL UNIT 93 FOR 6.30 FEET; THENCE RUN N.28°49'37"W. FOR 16.85 FEET TO THE POINT OF BEGINNING; THENCE RUN N.34°42'57"W. FOR 50.33 FEET; THENCE RUN N.00°31'08"E. FOR 5.24 FEET; THENCE RUN N.89°35'13"E. FOR 4.66 FEET; THENCE RUN S.28°49'37"E. TO A POINT ALONG THE NORTH LINE SAID LOT 1, BLOCK 5961 FOR 8.40 FEET; THENCE RUN S.43°50'46"W. ALONG SAID NORTH LINE LOT 1, BLOCK 5961 FOR 1.57 FEET; THENCE RUN S.28°49'37"E. FOR 43.55 FEET TO THE POINT OF BEGINNING.

CONTAINING: 158.75 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
7/17/19

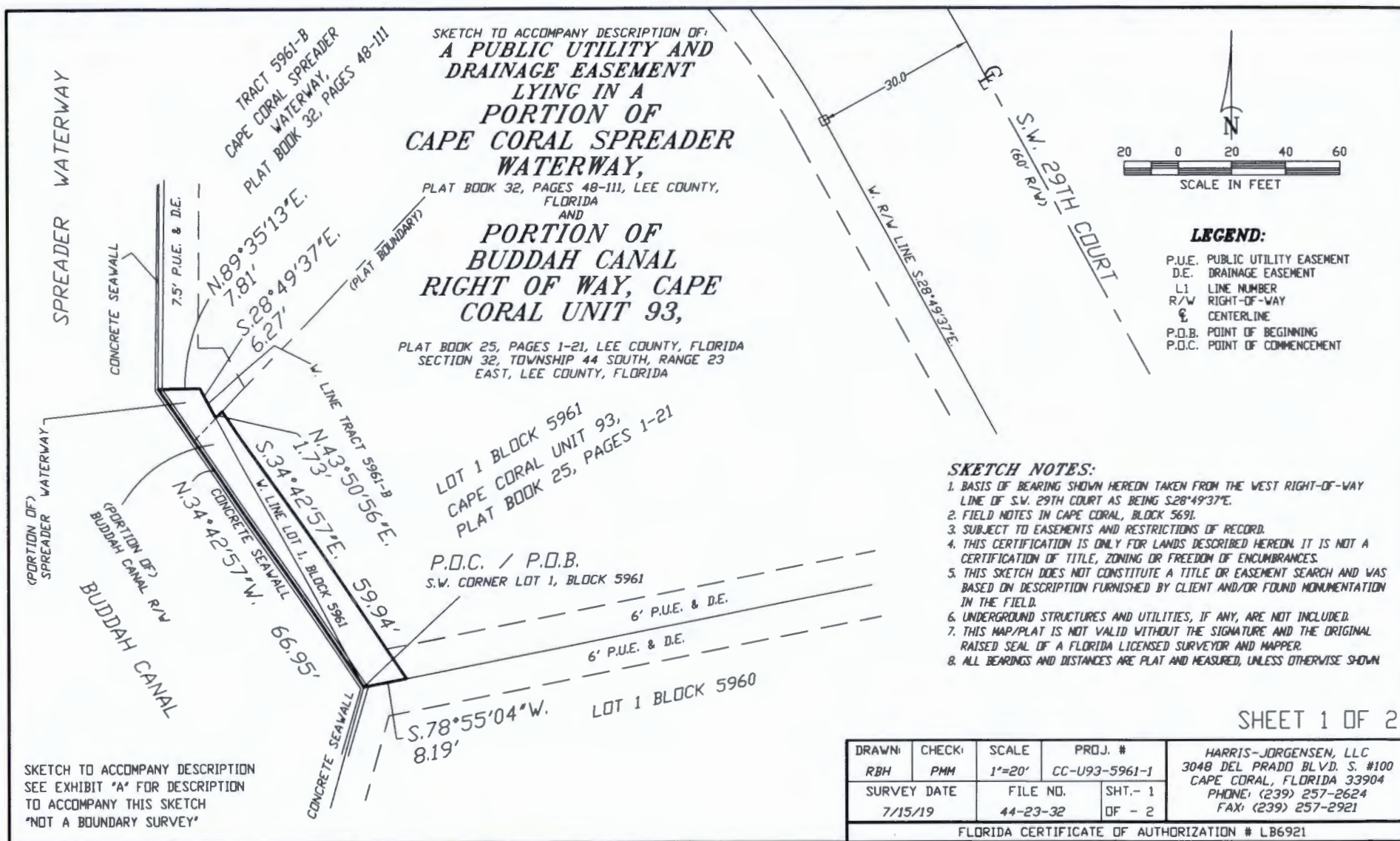


EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH
**A PUBLIC UTILITY AND DRAINAGE EASEMENT
LYING IN A
PORTION OF
CAPE CORAL SPREADER WATERWAY,
PLAT BOOK 32, PAGES 48-111, LEE COUNTY, FLORIDA
AND
PORTION OF
BUDDAH CANAL
RIGHT OF WAY CAPE CORAL UNIT 93,**

PLAT BOOK 25, PAGES 1-21, LEE COUNTY, FLORIDA
SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA

DESCRIPTION:

A PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN A PORTION OF SPREADER CANAL RIGHT OF WAY, PLAT OF CAPE CORAL, SPREADER WATERWAY, AS RECORDED IN PLAT BOOK 32, PAGES 48-111, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND A PORTION OF BUDDAH CANAL RIGHT OF WAY, CAPE CORAL UNIT 93, AS RECORDED IN PLAT BOOK 25, PAGES 1 THROUGH 21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BLOCK 5961, CAPE CORAL UNIT 93, PLAT BOOK 25, PAGES 1-21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID SOUTHWEST CORNER LYING ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL AND THE RIGHT OF WAY OF AFORESAID BUDDAH CANAL FOR A POINT OF BEGINNING; THENCE RUN N.34°42'57"W. ALONG SAID SEAWALL FOR 66.95 FEET; THENCE RUN N.89°35'13"E. FOR 7.81 FEET; THENCE RUN S.28°49'37"E. ALONG WEST LINE TRACT 5961-B, SAID PLAT OF CAPE CORAL, SPREADER WATERWAY FOR 6.27 FEET; THENCE RUN N.53°50'56"E. ALONG THE SOUTH LINE SAID TRACT 5961-B FOR 1.73 FEET; THENCE RUN S.34°42'57"E. TO A POINT ALONG THE SOUTH LINE OF THE AFORESAID LOT 1, BLOCK 5961, CAPE CORAL UNIT 9 FOR 59.94 FEET; THENCE RUN S.78°55'04"W. TO THE SOUTHWEST CORNER OF LOT 1, BLOCK 5961, CAPE CORAL UNIT 93, FOR 8.19 FEET TO THE POINT OF BEGINNING.

CONTAINING: 487.36 SQUARE FEET, MORE OR LESS.





PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
7/17/19

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

AERIAL MAP

Case No. VP19-0012

LEGEND

-  SUBJECT PARCEL
 SUBJECT AREA



0 10 20 30 40 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering applications. Please contact the Department of Community Development with any questions regarding this map product.

SUBJECT PARCEL

SUBJECT AREA

CITY OF CAPE CORAL






Department of
Community Development
Planning Division

CURRENT ZONING MAP

500 Proximity Boundary

Case No. VP19-0012

LEGEND

-  SUBJECT PARCEL
-  500' BOUNDARY
-  PRFLU - PRES Reg. by FLU
-  R1- Single Family Res.
-  SUBJECT AREA



0 40 80 120 160 Feet

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KIMMY CANAL

SW 27TH ST

SUBJECT PARCEL

SOUTH
SPREADER
WATERWAY

SUBJECT AREA

SW 29TH PL
SW 28TH LN

SW 29TH CT

LUCY
CANAL

500' BOUNDARY

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: George Thomas and Lynne Edwards

APPLICATION NO: VP19-0012

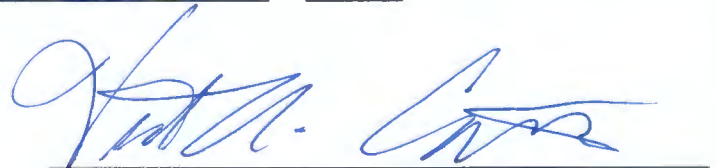
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 28th day of October, 2019.

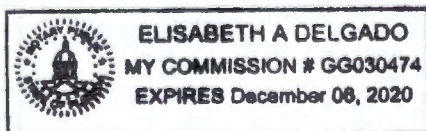


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of October, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474



Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

Item Number: 2.D.
Meeting Date: 11/5/2019
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

CASE#VP19-0013*; Address: 2929 SW 27th Street; Applicant: Manfred & Gisela Waldinger

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

Vacate 1,347.11 sq. ft. of platted easements between Lot 31, Block 5961, Unit 93, Cape Coral Subdivision and Tract 5961-A, Cape Coral South Spreader Waterway.

LEGAL REVIEW:

EXHIBITS:

See Attached Backup Material.

PREPARED BY:

Jessica M. Cruz Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Justin Heller, Senior Planner, jheller@capecoral.net, 239-574-0587

ATTACHMENTS:

| Description | Type |
|------------------|-----------------|
| Backup Materials | Backup Material |



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0013

INSTRUCTIONS - APPLICATION FOR VACATION OF A
PLAT, STREET, ALLEY, CANAL, RIGHT OF WAY or EASEMENT

1. Application, Acknowledgement Form, Authorization to Represent.
 - a. All forms must be filled out completely.
 - b. All forms must be signed by the property owner(s) and must be notarized.
 - c. If the Authorized Representative is an attorney, the Application and the Acknowledgement form may be signed by the attorney and an Authorization to Represent Property Owner is not required.
2. Letter of intent identifying your request.
3. Proof of title to the tract or parcel of land covered by the plat or, of the plat of which vacation is sought.
4. Letters of approval from the following:

| | | |
|---------------------------------------|---------------------------|--------------------------|
| Lee County Electric Cooperative, Inc. | Century Link (Telephone) | Comcast (Cable) |
| (239) 656-2112 | (239) 336-2031 | (239) 415-4744 |
| Russell Goodman | Century Link | Paul Bahizi |
| Project Coordinator-Land Acquisition | ATTN: Engineering Manager | Comcast |
| LCEC | 8441 Littleton Rd. | 12641 Corporate Lakes Dr |
| PO Box 3455 | N. Ft Myers, FL 33903 | Fort Myers, FL 33913 |
| North Ft Myers, FL 33918-3455 | | |
5. A sketch and legal description of the area proposed to be vacated area.
6. If there are any deed restrictions on the property, a copy of the restrictions will be required.
7. Certified topographic survey (done within the past six (6) months), and showing all pavement, utility and drainage features in said area, including but not limited to water, sewer and irrigation lines and manholes; power, cable and utility lines and poles; catch basins, inlets, pipes, and swales. In the case where no features exist, a signed, sealed and dated certification by a Florida registered Professional Engineer can be submitted which certifies that there are no such roadway, utility or drainage features within the limits of and adjacent to the proposed vacated area.
8. Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.
9. IT IS REQUIRED THAT APPLICANT AND/OR REPRESENTATIVE ATTEND HEARINGS BEFORE BOTH THE HEARING EXAMINER AND THE CITY COUNCIL.



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0013

REQUEST TO PLANNING & ZONING COMMISSION AND COUNCIL FOR A VACATION OF PLAT

FEE: \$843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

Following the approval of your request, the applicant shall be responsible for reimbursing the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

OWNER OF PROPERTY

Manfred Waldinger and Gisela Waldinger

Address: 2128 SW 49th Ter

City: Cape Coral State: FL Zip 33914

Phone: _____

APPLICANT

Manfred Waldinger and Gisela Waldinger

Address: Same

EMAIL

City: _____ State: _____ Zip _____

Phone: _____

AUTHORIZED REPRESENTATIVE

Scott J. Hertz, Esq.

Address: 1222 SE 47th Street, STE C1

EMAIL shertz@is4law.com

City: Cape Coral State: FL Zip 33904

Phone: 239-340-5554

Unit 93 Block 5961 Lot(s) 31+32 Subdivision Cape Coral

Address of Property 2929 SW 27th Street, Cape Coral, FL 33914

Current Zoning R1-B

Plat Book 25 , Page 17

Strap Number 32-44-23-C1-05961.0310

Folio ID: 10088708



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0013

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant, agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

(SIGNATURE MUST BE NOTARIZED)

Gisela Waldinger

APPLICANT NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE 

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 27th day of June, 2019 by

Gisela Waldinger who is personally known or produced Florida Driver's License
as identification.

Exp. Date: _____ Commission Number: _____

Signature of Notary Public: 

Printed name of Notary Public: Scott J. Hertz



Scott J. Hertz
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG136888
Expires 8/21/2021



DEPARTMENT OF COMMUNITY DEVELOPMENT
VACATION OF PLAT APPLICATION
Questions: 239-574-0776

Case # VP19-0013

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant, agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

(SIGNATURE MUST BE NOTARIZED)

Manfred Waldinger

APPLICANT NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 27th day of June, 2019 by

Manfred Waldinger
as identification.

who is personally known or produced Florida Driver's License

Exp. Date: _____

Commission Number: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____

Scott J. Hertz



Scott J. Hertz
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG136888
Expires 8/21/2021



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0013

ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I or my representative must attend any applicable meetings scheduled for the Hearing Examiner, Planning & Zoning Commission/Local Planning Agency, and City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

CORPORATION/COMPANY NAME

Manfred Waldinger

PROPERTY OWNER (PLEASE TYPE OR PRINT)

PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 27th day of June, 2019 by

Manfred Waldinger who is personally known or produced Florida Driver's License
as identification.



Scott J. Hertz
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG136888
Expires 8/21/2021

Exp. Date: _____ Commission Number: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____

(SIGNATURE MUST BE NOTARIZED)

Scott J. Hertz



DEPARTMENT OF COMMUNITY DEVELOPMENT
VACATION OF PLAT APPLICATION
Questions: 239-574-0776

Case # VP19-0013

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Scott J. Hertz, Esq.

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR

the attached requests for vacation of plat

UNIT 93 BLOCK 5961 LOT(S) 31+32+Tract A SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION

Lot 31 and 32, Block 5961, Cape Coral Subdivision, Unit 93, Plat Book 25, Pages 1 through 21, and Tract A, Block 5961, Spreader Waterway, Cape Coral, Plat Book 32, Pages 48 through 1 J 1, Public Records of Lee County, Florida

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

Manfred Waldinger

PROPERTY OWNER (Please Print)

Manfred Waldinger

PROPERTY OWNER (Signature & Title)

Gisela Waldinger

PROPERTY OWNER (Please Print)

Gisela Waldinger

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 27th day of June, 2019 by Manfred and Gisela Waldinger who is personally known or produced each produced a Florida Driver's license as identification.

Exp. Date: _____ Commission Number: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____

Scott J. Hertz



Scott J. Hertz
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG136888
Expires 8/21/2021

If a corporation, please supply the Planning Division with a copy of corporation paper.



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0013

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

Manfred Waldinger
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

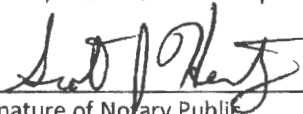

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 27th day of June,
2019 by Manfred Waldinger, who is personally known or who has produced Florida Driver's License
as identification.

Exp. Date _____
Commission # _____


Signature of Notary Public

Scott J Hertz
Print Name of Notary Public



Scott J. Hertz
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG136888
Expires 8/21/2021

INTELLIGENT SOLUTIONS LAW FIRM, PLLC



1222 SE 47th Street
Suite C1
Cape Coral, FL 33904
DIRECT DIAL: 239.244.2346
shertz@is4law.com
www.is4law.com

August 30, 2019

Mike Struve
City of Cape Coral
Planning Division
1015 Cultural Park Boulevard
Cape Coral, FL 33990
Email: mstruve@capecoral.net

Re: Vacation of Plat application for 2929 SW 27th Street, Cape
Coral, FL 33914

Mr. Struve:

As you are aware, my clients, Gisela and Manfred Waldinger (Owners), are applying for a vacation of plat to remove the unused and unnecessary easements between two parcels of land that have been strapped together. This vacation will not impact any other property and is depicted in the attached sketches and survey. Specifically, we are requesting the public utility easements (PUE) between Cape Coral Unit 93 Blk 5961 Tract A and Cape Coral Unit 93 Blk 5961 Lot 31 be vacated. There is already a PUE extending around the entire perimeter of the parcel, as set forth in the enclosed sketches and descriptions, so it will not be necessary to dedicate any new easements. The resulting condition will match what has been done on similar lots in this area of the City, where an unused easement was vacated after two separate parcels were combined.

Vacating the requested easement will enable the Owners to locate their new home in the location of the former easement and improve the City by enabling full development of the parcel, thus increasing the value of the land and taxable income to the City. As the easement is currently unused and there are no objections from any of the utilities that might utilize it, there will no negative impact to the City or any of the adjoining or neighboring properties.

We will provide all of the requested documents set forth in the application packet and look forward to working with the City to accomplish this vacation. Letters of no objection have been obtained from all utility providers specified and are included with our application. Documents being provided at this time include the following site plan, surveys, sketches, and descriptions:

Survey of 2929 SW 27th Street - CC-U93-5961-31

Sketch and description of easement to be Vacated

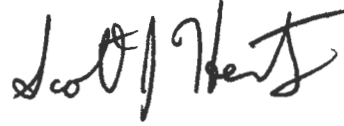
Deed evidencing Gisela and Manfred Waldinger's Ownership of Property

- City of Cape Coral – Planning Department
Page 2
August 30, 2019

Lastly, we are aware that this application is being under the City Land Development Code that became effective August 5, 2019. All requirements and criteria specified in LDC Article 3.4.5 will be satisfied through this application.

Very truly yours,

INTELLIGENT SOLUTIONS LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read "Scott J. Hertz". The signature is stylized with a large, looped "S" and a distinct "H".

Scott J. Hertz, Esq.

SJH/me



Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 • Fax (239) 995-7904
www.lcec.net

August 26, 2019

Mr. Scott J Hertz, Esq.
Intelligent Solutions Law Firm, LLC
1222 SE 47th Street
Suite C1
Cape Coral, FL 33904

Re: Request for Vacation of Easement Between Lot Lines for 2929 SW 27th St, Cape coral, FL 33914; Strap: 32-44-23-C1-05961.0310.

Dear Mr. Hertz:

You have opened up negotiations, on behalf of your Client, the Waldingers.

We have reviewed the sketch, the request submitted, and our internal records. LCEC has **no objection** to the request. The company services the parcel from the road side.

However, LCEC requires a continuous perimeter easement surrounding your property in order to serve your client. Therefore, in the after situation to the vacation, the petitioner will have to provide to the appropriate local jurisdiction, and impose a six-foot wide easement along the seawall and the side easements so that there is a continuous perimeter easement located upon the parcel.

In the event no definitive action, or no approval by local jurisdiction be received by the petitioner, this letter will terminate upon six months from the date listed above.

Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russ Goodman,
SR/WA

Digitally signed by Russ
Goodman, SR/WA
Date: 2019.08.26 11:59:38
-04'00'

Russel Goodman, SR/WA
Design & Engineering Coordinator – Land Rights



July 29, 2019

Manfred Waldinger
2128 SW 49th Terrace
Cape Coral, FL 33914
bermuda45@hotmail.com

Re: Vacation of Easements – 2929 SW 27th ST, CAPE CORAL FL 33914
Cape Coral Unit 93, BLK 5961, PB 25 PG 17, Lots 31 + 32 + TR A

Dear Mr. Waldinger:

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the document for the above referenced information. Based on the review, we have no objections to the proposed vacation of public utility easements shown on the plats provided.

If you should require additional information, please contact me at 239 336-2012.

Sincerely,

A handwritten signature in cursive script that reads "John C. Schroeder".

John C. Schroeder
Engineer
Fort Myers District
CenturyLink
John.schroeder@centurylink.com



**12600 Westlinks Drive Suite 4
Fort Myers, FL 33913
Phone: 239-318-1524**

August 29, 2019

Re: 2929 SW 27th St. Cape Coral, Fl. 33914

Dear Scott Hertz,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 239-318-1524.

Cordially,

A handwritten signature in black ink, appearing to read "Mark Cook", written in a cursive style.

Mark Cook
Project Coordinator

Prepared by and return to:

Eric P Feichthaler
Burandt Adamski & Feichthaler, PL
1714 Cape Coral Parkway East
Cape Coral, FL 33904
239-542-4733
File Number: Hilbert

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 2nd day of June, 2016 between **Jean Hilbert** whose post office address is 2926 SW 26th Terrace, Cape Coral, FL 33914, grantor, and **Manfred Waldinger and Gisela Waldinger, husband and wife** whose post office address is 2128 SW 49th Terrace, Cape Coral, FL 33914, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida** to-wit:

Lot 31 and 32, Block 5961, Cape Coral Subdivision, Unit 93, according to the map or plat thereof as recorded in Plat Book 25, Pages 1 through 21, Public Records of Lee County, Florida.

AND

Tract A, Block 5961, Spreader Waterway, Cape Coral, according to the plat thereof recorded in Plat Book 32, Pages 48 through 111, Public Records of Lee County, Florida.

Parcel Identification Number: 32-44-23-C1-05961.0310

Subject to taxes for 2016 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

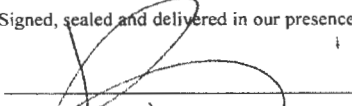
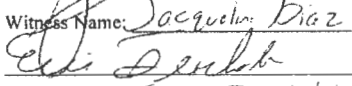
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

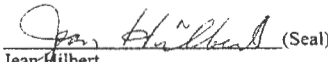
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2015**.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

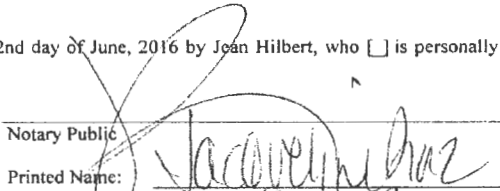

Witness Name: Jacqueline Diaz

Witness Name: Eric Feichteler

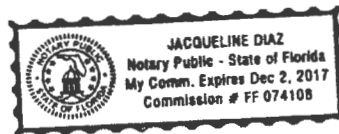
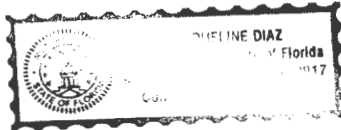
 (Seal)
Jean Hilbert

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 2nd day of June, 2016 by Jean Hilbert, who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]


Notary Public
Printed Name: Jacqueline Diaz
My Commission Expires: 12/2/17



Review Date: October 15, 2019

Property Owners: Manfred Waldinger and Gisela Waldinger

Location: 2929 SW 27th Street
Strap: 32-44-23-C1-05961.0310

Representative: Scott Hertz

Request: Vacate 1,347.11 sq. ft. of platted easements between Lot 31, Block 5961, Unit 93, Cape Coral Subdivision and Tract 5961-A, Cape Coral South Spreader Waterway.

Prepared By: Justin Heller, Senior Planner

Reviewed By: Mike Struve, AICP, Planning Team Coordinator

Approved By: Robert H. Pederson, AICP, Planning Manager

Recommendation: **Approval with conditions**

Property Description:

The applicants own the undeveloped three-lot platted site at 2929 SW 27th Street that abuts the South Spreader Waterway to the west. The site has a Single-Family (SF) Future Land Use Classification and Single Family Residential (R-1) Zoning. Properties to the north, east, and south share the same future land use and zoning classifications. State-owned lands to the west are unzoned and uses in these areas are regulated by the FLUC.

Background:

The applicant requests to vacate a portion of two six-foot-wide platted easements between Lot 31 and Tract 5961-A (Exhibit 1).

Most platted lots in Cape Coral have easements around the perimeter of each lot based on language appearing in the dedication section of their respective plats. When two or more lots are combined under common ownership, and the internal easements lack utilities, the City administers or “protects” the perimeter easement only. Easements interior to the site remain, but if the easements do not contain infrastructure (like drainage pipes or telephone poles and wires), the City allows buildings to be constructed over the easements. For the subject site, since the interior easements lack utilities, the City does not require these easements to be vacated. However, the owner has requested to vacate these easements to eliminate potential questions that a title company, lender, or insurer unfamiliar with City procedures may have in the future about the legality of building over a platted easement.

Analysis:

LDC, Section 3.4.5B state that applications for vacations shall be reviewed in accordance with the following criteria:

1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes. **Staff response:** *The easements will not provide a future transportation, public access, water management, or other foreseeable public benefit. The internal platted easements are not needed because the City will retain the existing perimeter easements to accommodate future utility installation, maintenance, and drainage functions.*
2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way. **Staff response:** *No additional easements are required. The existing perimeter easements will remain to accommodate future utility installation, maintenance, and drainage functions.*
3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas. **Staff response:** *As this vacation does not include a request to vacate either an alley or street right-of-way (ROW), this criterion is not applicable.*
4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area. **Staff response:** *As this vacation does not include a request to vacate either an alley or street ROW, this criterion is not applicable.*
5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation. **Staff response:** *These two easements have a combined width of 12 feet and occupy the middle of the site. The City lacks infrastructure in the subject easements. Century Link, Comcast, and LCEC also lack facilities in the easements and therefore do not object to this request. The City will retain the remaining perimeter easements for the site for future utility installation and maintenance.*

Consistency with the Comprehensive Plan

The City lacks specific policies in the Comprehensive Plan for vacations involving residential-zoned lands.

This request is consistent with Policy 1.15 of the Future Land Use Element.

Policy 1.15: *Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.*

- a. Single Family Residential: *Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.*

Staff comment: The site has R-1 zoning that is consistent with the Single Family Future Land Use Classification (FLUC). The site is an estimated 18,301 sq. ft. and the property will be developed with one single-family home. This equates to a density of about 2.4 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within the FLUC.

Recommendation:

Staff recommends **approval** of the requested vacations with the following conditions.

Conditions of Approval

1. The vacation of the platted easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen Inc., dated November 20th 2018, entitled "*PROPOSED VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN PORTION(S) OF: LOT 31, BLOCK 5961, CAPE CORAL UNIT 93, AS RECORDED IN PLAT BOOK 25 PAGES 1-21, AND TRACT 5961-A, CAPE CORAL SOUTH SPREADER WATERWAY AS RECORDED IN PLAT BOOK 32, PAGES 48-111, SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.*"
2. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant reimburses the City for all recording fees associated with this resolution and the easement deed.

Staff Contact Information

Justin Heller, Senior Planner

PH: 239-574-0587

Email: jheller@capecoral.net

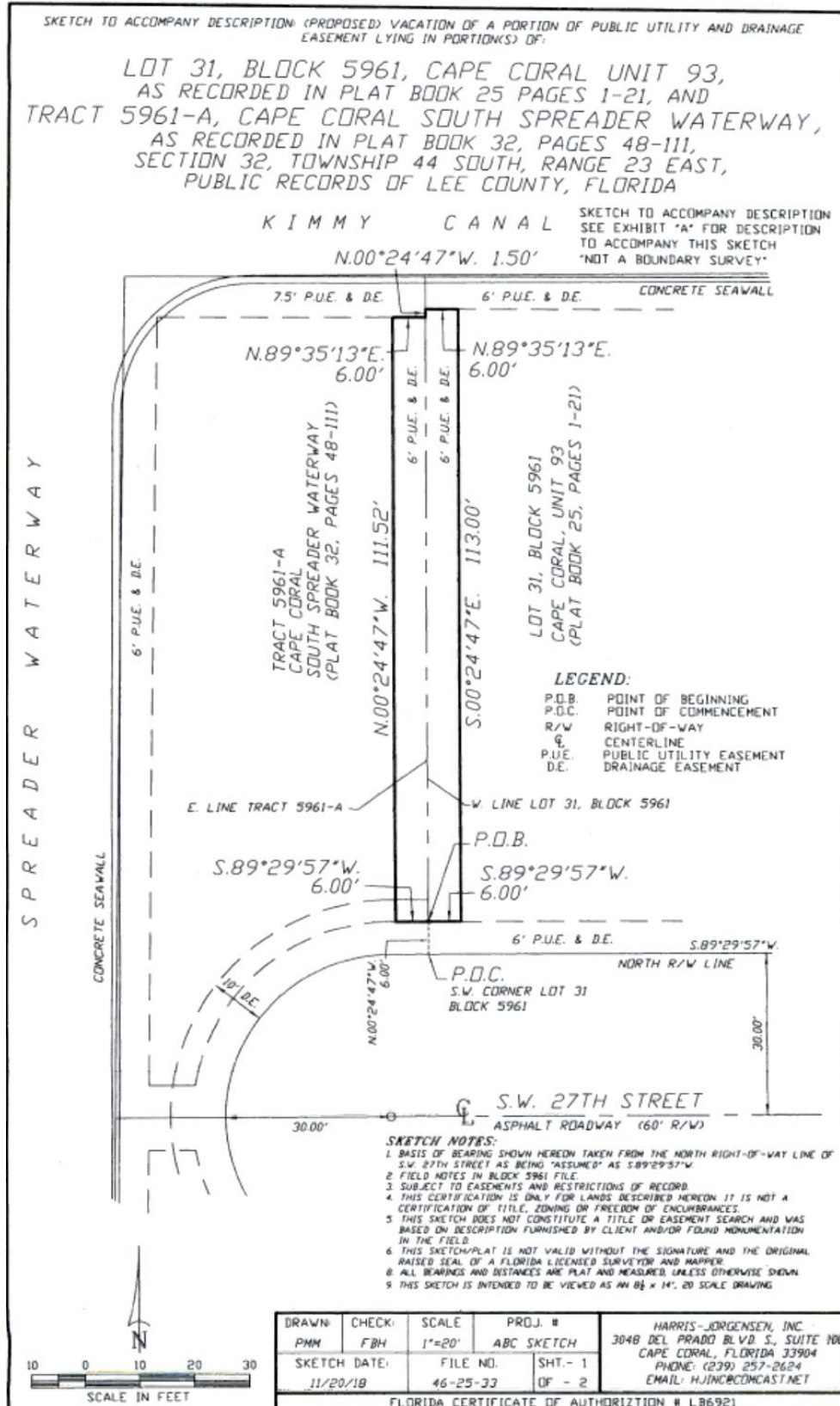
Exhibit 1:

EXHIBIT 'A'

DESCRIPTION TO ACCOMPANY SKETCH:

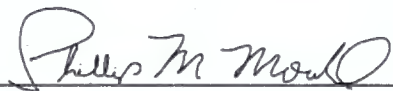
(PROPOSED) VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN PORTION(S) OF:

LOT 31, BLOCK 5961, CAPE CORAL UNIT 93,
AS RECORDED IN PLAT BOOK 25 PAGES 1-21, AND
TRACT 5961-A, CAPE CORAL SOUTH SPREADER WATERWAY,
AS RECORDED IN PLAT BOOK 32, PAGES 48-111,
SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT A POINT ALONG THE NORTH RIGHT-OF-WAY LINE OF S.W. 27TH STREET (60 FEET WIDE AND THE SOUTHWEST CORNER OF LOT 31, BLOCK 5961, CAPE CORAL UNIT 93, AS RECORDED IN PLAT BOOK 25, PAGES 1-21, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.00°24'47"W. ALONG THE WEST LINE SAID LOT 31 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°29'57"W. ALONG A LINE 6 FEET NORTH AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH SAID NORTH RIGHT-OF-WAY LINE FOR 6.00 FEET; THENCE RUN N.00°24'47"W. ALONG A LINE 6.00 FEET WEST AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH THE WEST LINE SAID LOT 31 FOR 111.52 FEET; THENCE RUN N.89°35'13"E. TO A POINT ALONG THE AFORESAID WEST LINE LOT 31 FOR 6.00 FEET; THENCE RUN N.00°24'47"W. ALONG THE WEST LINE SAID LOT 31 FOR 1.50 FEET; THENCE RUN N.89°35'13"E. FOR 6.00 FEET; THENCE RUN S.00°24'47"E. ALONG A LINE 6.00 FEET EAST AS MEASURED ON A PERPENDICULAR AND PARALLEL WITH SAID WEST LINE LOT 31 FOR 113.00 FEET; THENCE RUN S.89°29'57"W. ALONG A LINE 6.00 NORTH AS MEASURED ON A PERPENDICULAR AND PARALLEL WITH THE AFORESAID NORTH RIGHT-OF-WAY LINE OF S.W. 27TH STREET (60 FEET WIDE) TO A POINT ALONG THE WEST LINE LINE SAID LOT 31 FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 1,347.11 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
8/16/19

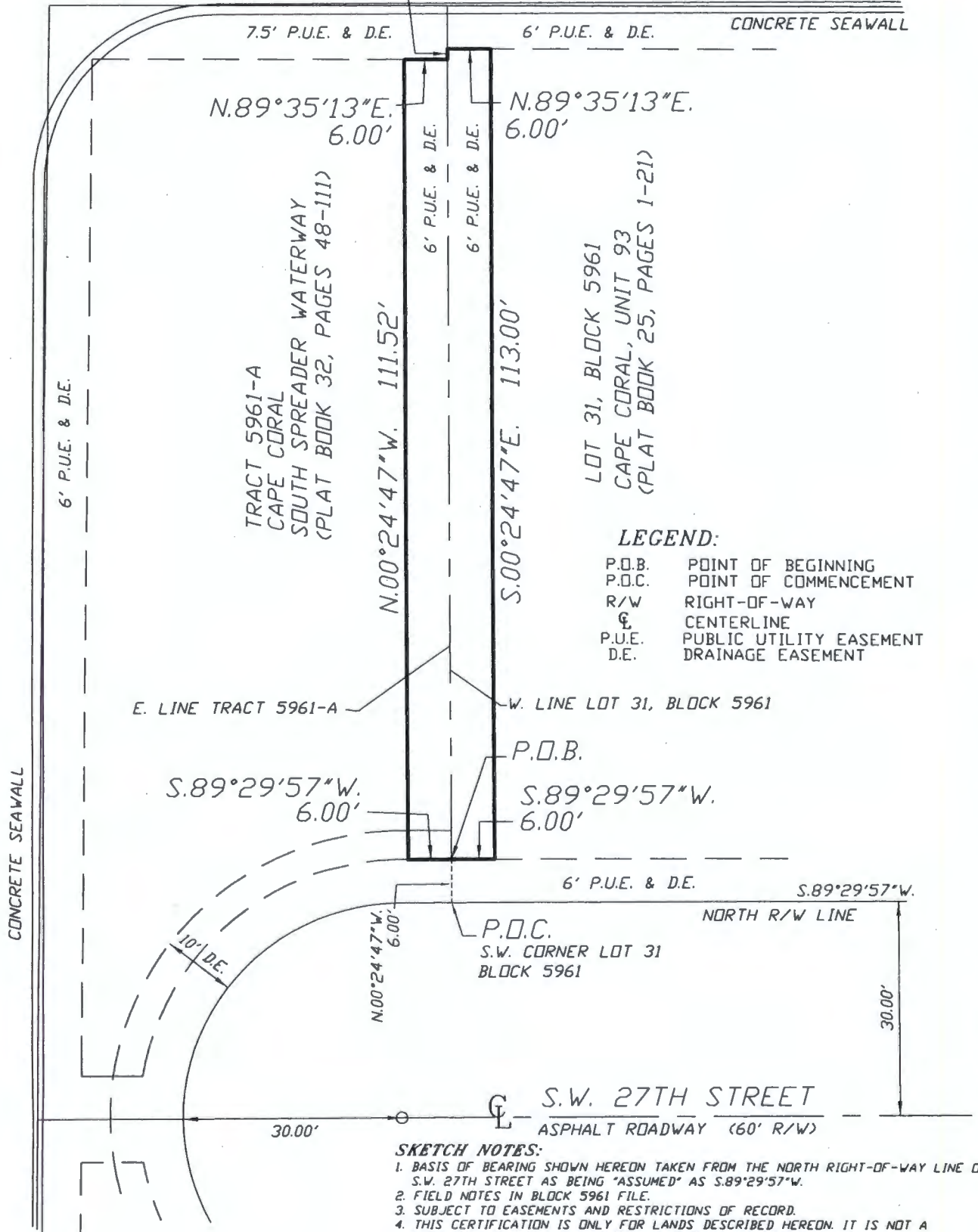
SKETCH TO ACCOMPANY DESCRIPTION: (PROPOSED) VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN PORTION(S) OF:

LOT 31, BLOCK 5961, CAPE CORAL UNIT 93,
AS RECORDED IN PLAT BOOK 25 PAGES 1-21, AND
TRACT 5961-A, CAPE CORAL SOUTH SPREADER WATERWAY,
AS RECORDED IN PLAT BOOK 32, PAGES 48-111,
SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

KIMMY CANAL

SKETCH TO ACCOMPANY DESCRIPTION
SEE EXHIBIT "A" FOR DESCRIPTION
TO ACCOMPANY THIS SKETCH
"NOT A BOUNDARY SURVEY"

N.00°24'47"W. 1.50'



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF S.W. 27TH STREET AS BEING "ASSUMED" AS S.89°29'57"W.
2. FIELD NOTES IN BLOCK 5961 FILE.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. THIS SKETCH/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 x 14", 20 SCALE DRAWING.

| | | | |
|--------------------------|---------------|----------------------|-----------------------|
| DRAWN: PMM | CHECK: FBH | SCALE 1"=20' | PROJ. # ABC SKETCH |
| SKETCH DATE: 11/20/18 | | FILE NO. 46-25-33 | SHT.- 1 OF - 2 |

HARRIS-JORGENSEN, INC.
3048 DEL PRADO BLVD. S., SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
EMAIL: HJINC@COMCAST.NET

FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921

BOUNDARY SURVEY OF
LOTS 31 & 32, BLOCK 5961
CAPE CORAL, UNIT 93

(PLAT BOOK 25, PAGES 1-21)

AND

TRACT 5961-A, CAPE CORAL
SOUTH SPREADER WATERWAY

(PLAT BOOK 32, PAGES 48-111)

ALL LYING IN SECTION 32, TOWNSHIP 44 SOUTH, RANGE 23 EAST
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

LEGEND:

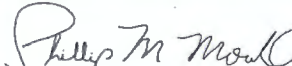
- | | | | |
|--------|--------------------------------|----------|-----------------------|
| ● | SET #4 IRON ROD (CAP LB #6921) | R.W.B. | RECLAIM WATER BOX |
| ○ | FOUND IRON ROD (I.R.) | V.M. | WATER METER |
| □ | CONCRETE MONUMENT (C.M.) | D/H | OVERHEAD POWER |
| P.R.M. | PERMANENT REFERENCE MONUMENT | P.P. | POWER POLE |
| P.U.E. | PUBLIC UTILITY EASEMENT | G.A.B.W. | GUY ANCHOR & WIRE |
| D.E. | DRAINAGE EASEMENT | T.S.B. | TELEPHONE SERVICE BOX |
| P.C. | POINT OF CURVATURE | N/D | NAIL & DISK |
| D.R. | OFFICIAL RECORDS BOOK | N/T.T. | NAIL & TINTAB |
| (S) | AS PER SURVEY | ELEV. | ELEVATION |
| (P) | AS PER PLAT | B.M. | BENCHMARK |
| (1) | CURVE NUMBER | ∞ | TYPICAL ELEVATION |
| L1 | LINE NUMBER | A/C | AIR CONDITIONER |
| R/W | RIGHT-OF-WAY | W.S. | WATER SYSTEM |
| CL | CENTERLINE | P.E. | POOL EQUIPMENT |
| | | | CONCRETE |

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF S.W. 27TH STREET, AS BEING S.89°35'13"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 5961.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. ISSUANCE OF THIS DRAWING, FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES, DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER RESTRICTIONS EXIST.
10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 20 SCALE DRAWING.
11. BENCHMARK DERIVED FROM CAPE CORAL BENCHMARK NUMBER 327-62-02, ELEVATION 4.68 NGVD, 3.50 NAVD.
12. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.)

FLOOD ZONE: "AE" ELEVATION: 8' N.A.V.D.
COMMUNITY No.: 125095 PANEL No.: 0385
SUFFIX --- F REVISION DATE: 8/28/08
MAP NUMBER: 12071C0385F

THIS SURVEY IS CERTIFIED TO:
INTELLIGENT SOLUTIONS LAW FIRM, PLLC.
MANFRED AND GISELA WALDINGER

| | | | | |
|---|--------------|----------|----------------|---|
| REVISED: | DESCRIPTION: | | BY: |  |
| | | | | |
| | | | | |
| | | | | |
| DATE OF LAST FIELD WORK: 8/5/19 | | | | PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER #6515 - STATE OF FLORIDA |
| DRAWN: | CHECK: | SCALE | PROJ. # | HARRIS-JORGENSEN, LLC. 3048 DEL PRADO BLVD. S., SUITE 100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921 |
| RBH | PMM | 1"=20' | CC-U93-5961-31 | |
| SURVEY DATE | | FILE NO. | SHT.- 1 | |
| 8/5/19 | | 44-23-32 | OF - 1 | |
| FLORIDA CERTIFICATE OF AUTHORIZATION LB #6921 | | | | |



500' NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP19-0013

REQUEST: Vacate 1,347.11 sq. ft. of platted easements between Lot 31, Block 5961, Unit 93, Cape Coral Subdivision and Tract 5961-A, Cape Coral South Spreader Waterway.

LOCATION: 2929 SW 27th St

CAPE CORAL STAFF CONTACT: Justin Heller, Senior Planner, 239-574-0587, jheller@capecoral.net

PROPERTY OWNER(S): Manfred Waldinger

AUTHORIZED REPRESENTATIVE: Scott J. Hertz

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday November 5, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

After Hearing Examiner has made a written recommendation, the case may be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice if this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

APPEALS: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE OF PUBLIC HEARING ADVERTISEMENT

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by order of
Kimberly Bruns, CMC
City Clerk
REF # VP19-0013

LEGAL AD - DCD

PUBLISH AD: Saturday October 26, 2019

Department of Community Development
Post Office Box 150027 • Cape Coral, Florida 33915-0027
1015 Cultural Park Blvd. • Cape Coral, Florida 33990
Email: planningquestions@capecoral.net

SW 26TH ST





CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP

Case No. VP19-0013

LEGEND

-  SUBJECT PARCEL
-  500' BOUNDARY
-  PRFLU - PRES Reg. by FLU
-  R1- Single Family Residential



0 50 100 150 200 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

SW 26TH TER

KIMMY CANAL

SOUTH
SPREADER
WATERWAY

SUBJECT PARCEL

SW 27TH ST

SW 29TH PL

SW 29TH AVE

500' BOUNDARY

SW 29TH CT

SW 28TH LN

SUBJECT PARCEL

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

AERIAL MAP

Case No. VP19-0013

LEGEND

 **SUBJECT PARCEL**



0 10 20 30 40
Feet

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Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: PLATTED easements - Waldinger

APPLICATION NO: VP19-0013

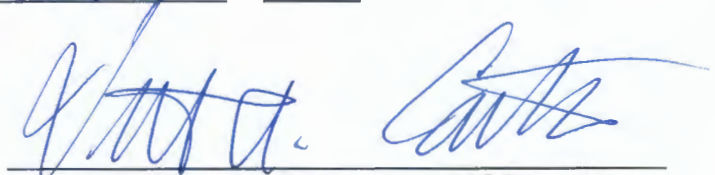
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 28th day of October, 2019.

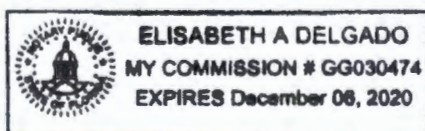


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of October, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/20 Commission # GG030474





Signature of Notary Public

Elisabeth A. Delgado

Print Name of Notary Public

| | |
|---------------|-------------------------------|
| Item Number: | 3.A. |
| Meeting Date: | 11/5/2019 |
| Item Type: | DATE AND TIME OF NEXT MEETING |

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Tuesday, December 3, 2019, at 9:00 a.m., in Council Chambers

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION: